Supreme Court, U. S.
FILED
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IN THE

# Supreme Court of the United States

October Term, 1971

No. 71-1270

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

vs.

MARY McKEE,
Defendant-Appellant.

## PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

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Detroit, Michigan 48214
823-3420

THE DETROIT LEGAL NEWS, DETROIT, MICHIGAN

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IN THE

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No. .....

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UNITED STATES OF AMERICA,
Plaintiff-Appellee,

vs.

MARY McKEE,
Defendant-Appellant.

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## PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

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Mary McKee prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Sixth Circuit, entered in the above entitled cause on March 6, 1972.

## OPINION BELOW

The opinion of the Court of Appeals for the Sixth Circuit, not yet reported, is printed in Appendix A hereto, *infra*, p. 1a.

## JURISDICTION

The judgment of the Court of Appeals for the Sixth Circuit was entered March 6, 1972. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254 (1).

## QUESTIONS PRESENTED

1. Did the Court of Appeals err and deny petitioner due process of law by finding that a prima facie case of fraudulent preparation of the 1963 income tax return of a taxpayer by petitioner had been established when the record of the trial is devoid of such proof?

2. Did the Court of Appeals err and deny petitioner due process of law by finding "what purports to be appellant's signature" on an allegedly false income tax return when there was absolutely no proof at trial that such signature was petitioner's and no other proof that she prepared or submitted same to IRS or that she had any specific intent to falsify or aid or counsel someone to do so where such proof is required by 26 U.S.C. § 7206 (2).[1]

3. Did the Court of Appeals err in finding that a return was fraudulent, based solely upon a witness' statement that he had imparted no information to the petitioner concerning certain deductions based upon claims of cost of labor when the government audit records indicate greater allowance based upon information supplied by the taxpayer?

4. Where the record of the trial is totally devoid of any proof whatsoever that petitioner aided, assisted in, or procured, counselled or advised the preparation or presentation of a false writing under, or in connection with, any internal revenue law, contrary to the provisions of 26 U.S.C. § 7206 (2), may the Court of Appeals find that

[1] Court of Appeals erroneously designates the statute in question as 18 U.S.C. § 7206 (2). (Appendix A hereto, *infra*, p. 1a).

other counts, some of which were convictions and others of which were acquittals in the same indictment were similar transactions and a proper substitute for missing proof of the corpus delecti?

5. May similar transactions, if such exist, be a substitute for proof of all material elements of the principal charge?

6. Whether, when a defendant takes the stand and neither the government or the defense ask a single question concerning the principal offense in one count of an indictment, as to which no proof was offered in the government's case in chief, the Court of Appeals may substitute, as proof of such offense, the proofs attributed to other counts for which defendant stands convicted in some and acquitted in others?

7. Whether the testimony of an ex-Assistant U.S. Attorney, denying that the government or its agents had conducted electronic surveillance of petitioner, is a sufficient declaration to establish no electronic surveillances where the ex-government counsel had examined no documents, inspected no logs, had been out of the office two years at the time of the hearings, had been responsible for thousands of cases, had never been the recipient of advice from either the Department of Justice or the IRS.

8. Where the Court of Appeals found insufficient disclosure by government as to absence or presence of government electronic surveillance, did a hearsay and unsworn letter (Appendix A., hereto, *infra*, p. 3a), referring to a 1967 Department of Justice letter purportedly denying such surveillance and reference to the post-trial testimony of an ex-Assistant U.S. Attorney already found insufficient by the Court of Appeals, substitute for the Court's directive that Attorney General John Mitchell make a definitive

representation to the Court of Appeals that no such electronic surveillance took place?

## STATUTES INVOLVED

Title 26, United States Code, Section 7206 (2):

> "Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document, shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000.00, or imprisoned not more than 3 years or both, together with costs of prosecution."

## STATEMENT

### Background Facts

The petitioner was convicted in the United States District Court for the Eastern District of Michigan, Southern Division, under the first count of an indictment charging her with twenty-eight (28) counts of willfully and knowingly aiding and assisting in, and counselling, procuring and advising the preparation and presentation to the District Director of Internal Revenue of false and fraudulent income tax returns of taxpayer Charles Brant, in violation of Section 7206 (2), Title 26, U.S.C. Petitioner was sentenced to "imprisonment for a period of three years on count I, under the provisions of Section 4208 (b), Title 18, U.S.C. for observation and study," (Appendix A, hereto, *infra*, p. 5a).

In addition, petitioner was found guilty of fifteen (15) other counts, but was not sentenced thereon.

Petitioner was engaged in the business of assisting her clients in the preparation of annual income tax returns. Each count represented a separate taxpayer return. Counts I (the subject of this petition) and II concerned the returns of Charles Brant for the respective years of 1963 and 1964, each of which was filed within two weeks of each other in August and September 1965. (Appendix A, hereto, *infra*, p. 8a, p. 13a, Governments trial Exhibit #3, and Defendant's trial Exhibit #27).[2]

Taxpayer Brant testified that he did not give petitioner any information concerning labor costs for either return nor did she ask him anything concerning labor; that he had no labor costs for either year. However, with respect to the 1964 return (count II) Brant identified a group of papers in his handwriting which he had given to petitioner and which showed labor costs higher than those reported in the 1964 return. The labor cost for 1964 allowed by the IRS Auditor reflected the exact same figure supplied to petitioner by Brant even though the IRS Auditor denied ever seeing a similar paper. The labor cost allowed by the IRS Auditor with respect to the 1963 tax return (the subject of this petition) again reflected a higher figure then that on the 1963 return (Appendix A. hereto, *infra*, p. 11a, Government's Trial Exhibit #28).

---

[2]The Court of Appeals was under the erroneous impression that the taxpayer first went to petitioner in 1963 (which, at best, would have been his 1962 return) and therewith filed the return which was the subject of count I. The record discloses that (a) the taxpayer first went to petitioner on a tax matter in 1963, (Trial Record p. 22, Appendix A. hereto, *infra*, p. 18a) but the returns in question were filed in 1965 (Appendix A. hereto, *infra*, p. 8a, Government's Trial Exhibit #3). There was no connection between the first visit in 1963 and the "purported" return in 1965.

No testimony was adduced as to the filing or presentation to the IRS of the 1963 return (count I) now before this Court.

No testimony or proof was adduced as to anything transpiring concerning the 1963 return between taxpayer Brant and petitioner, advising, counselling, procuring, assisting or otherwise. Except for Brant's self-serving statement that he had no 1963 labor costs and had not told petitioner of any, there was no evidence, proof of testimony of the falsity of the returns as to the erroneous inclusion of labor costs or as to what petitioner did to aid or counsel a false writing or to any intent or knowledge whatsoever on petitioner's part. Indeed, the work papers of the IRS Auditor allowed greater labor costs for each return, admittedly communicated to him by the taxpayer (Appendix A, hereto, *infra*, p. 38a). Nor did the Auditor find or report any evidence of fraud concerning the return, simply allowing and disallowing certain costs as his audit revealed.

Except for the taxpayers single statement that he did not tell petitioner of any labor costs, nor did she ask him, there is no evidence in the record of petitioner's *scienter*.

Finally, petitioner took the witness stand and neither government counsel or her counsel asked her a single question concerning the return in question under count I. The Court of Appeals refers to the fact that the questioned "return is signed with what '*purports*' (emphasis our own) to be Appellant's signature." The trial record is devoid of any proof of preparation of the return or authentication as to signature, nor are there any proven facts from which such an inferences could be drawn.

**Post-Trial Discovery of Electronic Eavesdropping**

Petitioner requested, and was granted, a post-trial evi-

dentiary hearing as to whether there was electronic eavesdropping which might have tainted the trial evidence. Petitioner and one of her employees testified at the post-trial evidentiary hearing that an ex-IRS employee advised petitioner that her wires had been tapped. On the first day and date of that hearing, March 22, 1971, the government witnesses denied personal participation in eavesdropping but neither government counsel or the witnesses had examined a single log or sought an official statement from any source that denied eavesdropping. The ex-employee, who advised petitioner that her wires had been tapped had not been assigned to the investigation of petitioner's case and, until some tenable admission or denial of eavesdropping activity was obtained from the investigatory officers or their supervisors, his testimony would have been unsubstantiated. He was therefore, not called by petitioner. The government neither called him or asserted his denial of petitioner's and her witness' testimony.

Over a period of one-and-a-half (1½) months on three separate hearing sessions, the demonstrated and calculated disinsterest of the government in going to any source of final determination of whether there existed electronic surveillance persisted, challenging petitioner to prove such surveillance as best she could from the outside of the system. This was impossible. On the final day, each government witness said he had found no evidence of electronic surveillance and no witness, including the ex-counsel for the government or the present counsel, examined the area of departmental source of information which would be a final assertion.

Present government counsel appeared on the argument on appeal and admitted that no inquiry had been made by him or anyone else to the Department of Justice as to the

existence of electronic surveillance. A promise of a definitive assertion by the Attorney General was made, but did not materialize because the response to the Court of Appeals directive took the form of a letter from the government counsel quoting the ex-counsel's post-trial testimony, unacceptable during argument to the Court of Appeals, plus reference to a 1967 memorandum from the Department of Justice not exhibited to petitioner (Appendix A, *infra*. p. 3a).

## REASONS FOR GRANTING THE WRIT

1. This case brings to the Court a new aspect of the "two court" rule on findings of fact.[3] In the trial court no proof was adduced concerning any material element of count I. While it was certainly one of petitioner's claims on appeal that the government did not even bother to

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[3] "The concurrent findings of fact of the District Court and Circuit Court of Appeals are persuasive proof in support of their judgments, but the rule does not relieve the Supreme Court of the task of examining the foundation for findings in a particular case." *Baumgartner* v. *U.S.*, 64 S. Ct. 1240.

"Supreme Court cannot undertake to review concurrent findings of fact by two courts below in absence of very obvious and exceptional showing of error." *Berenyi* v. *District Director, Immigration and Naturalization Service*, 87 S. Ct. 666.

"The rule that concurrent findings of fact by two courts below will not ordinarily be disturbed, will not be applied strictly." *Thomson Spot Welder Co.* v. *Ford*, 44 S. Ct. 533.

"Supreme Court accepts findings of fact in which two courts concur, unless clear error is shown." *Texas & N.O.R.C.* v. *Brotherhood of Railway and Steamship Clerks*, 50 S. Ct. 427.

"Review in appellate proceeding extends to findings of fact as well as to rulings on questions of law." *Panama Mail S.S. Co.* v. *Vargas*, 50 S. Ct. 448.

"The Supreme Court would accept findings of fact of District Court concurred in by Circuit Court of Appeals where no clear error was shown." *Anderson* v. *Abbott*, 64 S. Ct. 531.

"Concurrent findings of fact of District Court and Circuit Court of Appeals which were not shown to be plainly erroneous or unsupported by evidence were accepted by Supreme Court as conclusive basis for its decision." *Virginian Ry. Co.* v. *System Federation No. 40*, 57 S. Ct. 592.

prove the income tax return was petitioner's product, her claim was that the government further failed to prove her knowledge of falsity, if it was false, her aiding, counselling or presentation of the return to the IRS. Citing a Sixth Circuit Court (*U.S.* v. *Martin*, 375 F. 2d 956 (6th Cir. 1967), the Fifth Circuit in *Fitzpatrick* v. *U.S.*, 410 F. 2d 513, 595, states:

> "On each element the government must present substantial evidence from which a jury might find the accused guilty beyond a reasonable doubt."

The Sixth Circuit here refused to follow its own pronouncements.

Taxpayer Brant made the simple assertion that he had no labor costs, that he did not *tell* petitioner he had any and that she asked him no questions concerning labor costs. The taxpayer went further; he testified exactly the same about his other return for the subsequent year, filed about two weeks after the first. However, with respect to the latter return he identified a paper listing his costs, including labor, which he admitted he gave to petitioner and which reflected the same figure later allowed by the IRS Auditor. Thus, the simple assertions of the taxpayer with respect to the 1963 return have no probative value, and the series of questions set out by the Court of Appeals could represent only preliminary proofs to be followed by further evidence of guilt yet to be produced. The total testimony concerning count I is set forth in Appendix A, hereto, *infra*, p. 40a-p. 51a. What the Court of Appeals quoted was all the evidence of the preparation, knowledge of falsity and contact between the taxpayer and the petitioner concerning that particular return. There was no other proof at tial for the jury to consider the guilt or innocence of petitioner in that charge.

See *U.S.* v. *Bass*, 427 F. 2nd. 161 (7th Circuit, 1970) requiring proof of knowledge of falsity.

However, the Court of Appeals took the one further step, not legally valid, in asserting that the jury could consider the "pattern of similar conduct in relation to the other 27 counts of the indictment." Thirteen of the other counts revealed patterns of innocence and 14 of the other counts might be said to be patterns of guilt. It suggests that the Court of Appeals was inclined to credit the pattern of guilt to count I because the convictions outweighed the acquittals by one.

The reasoning of the Court of Appeals appears more tenuous when it is realized that they attempt to introduce into the law of "similar transactions" a new rule which permits the substitution of "similar transactions" for all the material elements of the crime. This is not legally permissible. (Appendix A, hereto, *infra* p. 3a)

Rather, it seems that the Court of Appeals abandoned its dedication to the tenets of the law in its delimma as to what to do about the fact that the trial judge had sentenced petitioner on only one count and might be prohibited from proceeding on the remaining counts. Such can be no concern of the Court of Appeals when ruling on the question of sufficiency of evidence, which they undertook to do, and when attempting to ennunciate the law of similar transactions in the face of a trial record devoid of a corpus delecti as to the one count on appeal.

Confronted with the basic proposition that the government must prove each and every material element of the crime and that the burden of proof never shifts, the trial record speaks loudly in the void of such proofs and lack of fidelity of the government to its obligation.

It appears patently unacceptable that a multiplicity of charges brought by the government should be submitted to the jury in a fashion susceptible of being taken as a satisfactory substitute for evidence of the crime in any single count. Logically, if the primary elements of the crime under consideration were not proven, there is no substance to which a jury may apply the catalyst of "similar transactions" supposedly contained in almost equal balance of guilt and innocence in the same indictment (See *U.S.* v. *Carter*, 401 F. 2d. 748 (3rd Cir. 1968)).

**Eavesdropping**

It is not unheard of that for one reason or another electronic eavesdropping has not in the past been communicated to the party under surveillance. Obviously a defendant is at a disadvantage in not being able to qualify eavesdropping memoranda and material as public documents, subject to his exploratory search. But the government, in most instances, has embarked upon what appears to be good faith revelation of such activity, if only for the court's *in camera* inspection.

However, the post-trial hearings in this matter indicated a studied effort on the part of government counsel and all agency personnel to restrict any search for surveillance to merely a flat effort to corroborate a field level investigator's denial of electronic surveillance in this case. This became so exaggerated that the agent in charge of the case testified under oath that he had never heard of any electronic surveillance in the Detroit area (Trial Record, p. 58, Appendix A, hereto, *infra* p. 51a). The remark of government counsel during appellant's argument was that this "may have been sweetening the cake a little." The final act of government counsel, in response to the directive of the

Court of Appeals to obtain a current statement from the Attorney General denying or affirming the presence of electronic surveillance, was a letter referring to a memorandum of a Tax Division Staff Attorney dated October 6, 1967 (Appendix A, hereto, *infra*, p. 3a). This seems a highly unsatisfactory response to the directive of the Court of Appeals and consistent with the prior indifference of government to make a good faith finding concerning this particular petitioner.

## CONCLUSION

For the foregoing reasons, this petition for writ of certiorari should be granted.

Respectfully submitted,
S. ALLEN EARLY and
RUSSELL L. SWARTHOUT,
Counsel for the Petitioner,
8900 E. Jefferson Avenue, #202-3
Detroit, Michigan 48214
823-3420

No. 71-1752

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

UNITED STATES
OF AMERICA,
*Plaintiff-Appellee,*

v.

MARY McKEE,
*Defendant-Appellant,*

Appeal from the United States District Court for the Eastern District of Michigan, Southern Division.

---

Decided and Filed March 6, 1972

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Before: PHILLIPS, Chief Judge, EDWARDS and McCREE, Circuit Judges.

PER CURIAM. Appellant in this case was charged in a 28-count indictment with fraudulently preparing income tax returns, in violation of 18 U.S.C. § 7206(2) (1970). A three-year sentence was entered under 18 U.S.C. § 4208(b) (1970) on the first count only and appealed.

Appellant's counsel argued before us that reversal of conviction on this count was required because the government failed to prove a case for submission to the jury. In this regard his principal point was that there was no affirmative proof that appellant had prepared the income tax return in question.

On inspection of the briefs and appendices and the original record in this case, we are convinced that the government made out a prima facie case of fraudulent preparation of the 1963 income tax return of Charles Brant by 1) offering into evidence Brant's 1963 income tax return (Government Exhibit 3), which on the line designated for the person preparing the return is signed with what purports to be appellant's signature, and contains beside it an address which is admitted to be appellant's address; 2) the testimony of Charles Brant, as follows:

> "Q. Do you know the Defendant in this case, Mrs. Mary McKee?
>
> A. Yes.
>
> Q. How long have you known her?
>
> A. I first went to her in—it would be in 1963.
>
> Q. Why?
>
> A. I went to her to have income tax filed.
>
> Q. Mr. Brant, I show you Government's Exhibit 3 in evidence and ask you to identify it, please, if you would, sir.
>
> A. This is my 1963 report."

3) Brant's subsequent testimony denying that he had furnished appellant information on which a business expense item was based contained in the record as follows:

> "Q. Mr. Brant, referring to the exhibit you have in your hand now, and referring specifically to Schedule C, line 4, would you read the number that appears there, please?
>
> A. 'Cost of labor.'
>
> Q. Excuse me, sir. What else does it say in parenthesis?
>
> A. 'Do not include salary paid to yourself.'
>
> Q. What dollar figure is shown there, sir?

A. $2,209.65.

Q. What, if anything, did you tell Mrs. McKee about that entry?

A. I did not tell her anything.

Q. Did you at any time tell her you had a man working for you?

A. No."

In addition, the jury had before it (and had a right to consider) the pattern of similar conduct on the part of appellant in relation to the other 27 counts of the indictment as to which the jury brought in 14 additional verdicts of guilty.

In our judgment there was ample evidence from which the jury could have found appellant guilty on Count 1 of the indictment on which she was sentenced.

We find no need to remand this case for any further investigation pertaining to appellant's allegation of electronic surveillance. The United States Attorney who was in charge of the case testified before the District Court: "I'm absolutely certain that the government itself and no agents of the government engaged in any electronic surveillance."

The judgment of the District Court is affirmed.

Loren G. Keenan
Comp.
226-3110

February 7, 1972

VIA CERTIFIED MAIL—RETURN RECEIPT

Honorable Goerge C. Edwards, Jr.
United States Court of Appeals
For the Sixth Circuit
Cincinnati, Ohio

Re: United States vs. MARY McKEE;
No. 71-1752

Dear Judge Edwards:

In response to your first request during oral argument on February 3, 1972, that the Government furnish the Charles A. Brant exhibits admitted into evidence at the trial of Mary McKee, I have enclosed for your examination the 1963 and 1964 Income Tax Returns of Charles A. Brant as reproduced on pages 97a to 105a of the Joint Appendix.

In response to your second inquiry about whether the Department of Justice had ordered electronic surveillance of Mrs. McKee: (1) a Department of Justice memo in my files dated October 6, 1967, from a Tax Division staff attorney, James F. Walker, to then Assistant Attorney General Rogovin, indicates no electronic surveillance of McKee; (2) at pages 193a and 194a of the Joint Appendix, former United States Attorney for the Eastern District of Michigan, Robert Grace, states there was no electronic surveillance; (3) at pages 156a and 157a of the Joint Appendix, I indicated to Judge Thornton that I was unaware of any electric surveillance of McKee; (4) several high ranking Internal Revenue Service officials testified they knew of no bugging of McKee (pages 176a to 191a); and (5) the Special Agent in charge of the investigation, Al Marek, testified he knew of no electronic surveillance of McKee (pages 159a, 191a).

Sincerely,
RALPH B. GUY, JR.
United States Attorney
LOREN G. KEENAN
Chief Trial Attorney

LGK/cw
enclosures
cc: Mr. S. Allen Early, Jr.; Mr. Fred G. Folsom

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF MICHIGAN,
SOUTHERN DIVISION

UNITED STATES OF AMERICA
v.
MARY McKEE

No. 43291

---

On this 8th day of April, 1970, came the attorney for the government and the defendant appeared in person and[1] by counsel, S. Allen Early, Jr.

IT IS ADJUDGED that the defendant upon her plea of[2] not guilty and Verdict of guilty has been convicted of the offense of willful preparation of false income tax returns; in violation of Section 7206(2), Title 26, U.S.C., as charged[3] in the Indictment; and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of[4] three (3) years on Count One, under the provisions of Section 4208(b), Title 18, U.S.C., for observation and study.

The defendant's appearance bond is hereby cancelled.

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States

Marshall or other qualified officer and that the copy serve as the commitment of the defendant.

THOMAS R. THORNTON,
United States District Judge.

Approved as to form:
Asst. U. S. Attorney

The Court recommends commitment to:[a]

A true Copy. Certified this 8th day of April, 1970.

By KATHLEEN GRUBER,
Deputy Clerk.

## RETURN

I have executed the within Judgment and Commitment as follows:

Defendant released on $5000.00 personal Bond.

ANTHONY E. ROZMAN,
United States Marshal

(Tr-1)
Detroit, Michigan
Wednesday, April 8, 1970
11:00 o'clock, a.m.

• • •

CLERK OF THE COURT: 43291, United States vs. Mary McKee.

MR. KEENAN: The Government is present, Your Honor.

MR. EARLY: For the Defendant, Your Honor.

THE COURT: Mrs. McKee, do you have anything to say to the Court before I impose sentence on you?

DEFENDANT McKEE: No.

THE COURT: Do you want to speak for her, Mr. Early?

MR. EARLY: No, sir, I won't say anything at this time.

THE COURT: All right. You are committed to the custody of the Attorney General for three years on Count 1 for study under the provisions of Section 4208 (b) of Title 18.

(Tr-2)

I don't know whether you are familiar with that Section of the Code or not, Mr. Early.

MR. EARLY: I believe I am, your Honor, if this is the one which permits medical consideration.

THE COURT: Well, she is sent to an institution, and a study is conducted by psychologists and psychiatrists, and at the end of a three or four months period, the Court will get a report and then she will come back here for disposition on the basis of the report that is furnished to the Court by the Bureau of Prisons.

MR. EARLY: Yes, that's what I understand.

• • •

*Brant 1963 Return*

Form 1040 — U.S. INDIVIDUAL INCOME TAX RETURN—1963

DE 05 3350

For the year Jan. 1963, ending Dec. 63

Your social security number: 378 32 69

Print or Type

Name and initial: Charles A. — Last name: BRANT

If joint return of husband and wife, use first names and middle initials of both

Occupation: Self-Employed

Home address: 10205 Main Street — Number and street or rural route

Wife's number of joint return:

Maybee, Michigan — City, town or post office, and State — Postal ZIP code

Occupation:

Did you file a return for 1962? XX Yes ☐ No. If name or address was different than shown above, enter name and address used.

Check one: Single ....X Married filing joint return (even if only one had income) .... Unmarried Head of Household .... Surviving widow(er) with dependent child .... Married filing separately .... *Give name of wife or husband only if also filing separately*

If joint return, include all income of both husband and wife—**INCOME**—If either you or your wife worked for more than one employer, see page 4 of instructions.

| | (a) Federal income tax withheld | (b) Wages, etc. |
|---|---|---|
| 1. Wages, salaries, tips, etc., and excess of allowances over business expenses: Employer's name / Where employed (city and state) | $ | $ |
| 2. Totals | | |
| 3. "Sick pay" if included in line 1 (attach required statement) | | |
| 4. Subtract line 3 from line 2 | | |
| 5a. Dividends (Schedule B) | | |
| b. Interest (Schedule B or list of payers and amounts) | | |
| c. Rents, royalties, pensions, etc. (Schedule B) | | |
| 6a. Business income (Schedule C) | | 272.50 |
| b. Sale of exchange of property (Schedule D) | | |
| c. Farm income (Schedule F) | | |
| 7. Total (add lines 4 through 6c) | | 272.50 |
| 8. Payments by self-employed persons to retirement plans, etc. (attach Form 2950 SE) | | |
| 9. Total income (subtract line 8 from line 7) | | 272.50 |

RECEIVED 63 AUG 19 1965 DIRECTOR, INT. REV. DETROIT, MICH.

10. Tax Table — **FIGURE YOUR TAX BY USING EITHER 10 OR 11** — 11. Tax Rate Schedule

If line 9 is less than $5,000 and you do not itemize deductions, Complete page 2 exemption schedule.

Copy total exemptions here ..... Find your tax in table on page 10 of instructions. Do not use lines 11a, b, c, or d. Enter tax on line 12.

a. If you itemize deductions, enter total from page 2 If line 9 is $5,000 or more and you do not itemize, enter 10% of line 9 but not more than $1,000 ($500 if married and filing separate return).
b. Subtract line 11a from line 9.
c. Copy total exemptions from page 2 here ....., multiply by $600 — 600.00
d. Subtract line 11c from line 11b. (Figure your tax on this amount by using tax rate schedule on page 9 of instructions and enter tax on line 12.)

**TAX—CREDITS—PAYMENTS**

| | |
|---|---|
| 12. Tax (from either tax table or tax rate schedule) | None |
| 13a. Dividends received credit | |
| b. Retirement income credit | |
| c. Investment credit (Form 3468) | |
| d. Other credits (Specify—see page 5 of instructions) | |
| 14. | |
| 15. 12) | None |
| 16. vestment credit (attach statement) | |
| 17. 3 or F-1) | None |
| 18. | — 0 — |
| 19. bove) | None |
| credits | None |
| (Office where paid) | |

**TAX DUE OR REFUND**

| | |
|---|---|
| 20. tax (line 18), enter Balance Due. Pay in full with this return. → | |
| 21. an tax (line 18), enter Overpayment → | |
| 22. ed to 1964 Estimated Tax | None |

Attach Copy II of Forms W-2 here ● Money Order Here ●

DETROIT

| | | |
|---|---|---|
| Tax | 530.94 | |
| Pen. | 29.05 | 6536 |
| | 145.24 | 6651 |
| Int. | 24.24 | |
| Total | 139.47 | |
| IR Code Section | 1.213(d) | |
| Initials | S.T. | Assessor's Date 9-30-66 |
| Account No. | 61-21277 | |

Government's Exhibit 3

· 376-32-6032

DATE
DATE
DATE
DATE

1. NAME Charles A. Brant
2. ADDRESS 2130 Ida-Maybee Road
Monroe, Michigan

| CLASS OF TAX | 4. TAXABLE PERIOD | 5. DATE RECEIVED | 6. CASHIER BLOCK NO. | 7. PRE-DEPOSIT NO. |
|---|---|---|---|---|
| Income | 1963 | 9 / 16 / 66 | | |

AUDIT DIVISION INSTRUCTIONS

- ☒ ASSESS AS SHOWN IN ITEMS 23-26
- ☐ DEPOSIT AS CASH BOND — SEND FORM L-56
- ☐ DEPOSIT AS CASH BOND — DO NOT SEND FORM L-56
- ☐ DEPOSIT PENDING CLASSIFICATION INSTRUCTIONS
- ☐ NO RECORD

REMARKS

BY (Audit Division)
FA#3-4; JCP

UNASSESSED PAYMENTS

| | | |
|---|---|---|
| 15. FORM L-56 — DATE MAILED | | DATE REPLY RECEIVED |
| 16. APPLIED — ACCOUNT NO. | | AMOUNT |
| 17. REFUNDED — SF 1166 No. | | AMOUNT |
| 18. APPLIED TO AMENDED RETURN | | AMOUNT |
| 19. CREDIT TRANS. — FORM 2158 NO. | | AMOUNT |

ADJUSTMENT OF ASSESSED PAYMENT

| | |
|---|---|
| 20. OVERPYT. ALLOW. FORM 2188 No. | AMOUNT |
| 21. ADDIT. ASSES. FORM 23C DATED — 0 — | AMOUNT — 0 — |

22. DISTRICT

ALLOCATION FOR ASSESSMENT

| | |
|---|---|
| 23. TAX | 580.94 |
| 24. PENALTY | 29.05 |
| 25. PENALTY | 145.24 |
| 26. INTEREST | 81.24 |
| 27. TOTAL PAYMENT | 839.47 |
| ASSESSED PAYMENT | |
| 28. DEFICIENCY NO. | 2222 |
| 29. FORM 23C DATED | 9-30-66 R.E. |
| 30. BY (Collection Division) | |

S. TREASURY DEPARTMENT—
NAL REVENUE SERVICE

**ADVANCE PAYMENT RECORD** PART 1 Form 1962 (Rev. 12-59)

U.S. GOVERNMENT PRINTING OFFICE: 1962—643843

# Brant 1963 Return

Form 1040—1963

## SCHEDULE A.—EXEMPTIONS (See page 6 of instructions)

1. Exemptions for yourself—and wife (only if all her income is included in this return, or she had no income)

Check boxes which apply:

| | | | Enter number of boxes checked |
|---|---|---|---|
| (a) Regular $600 exemption | ☒ Yourself | ☐ Wife | |
| (b) Additional $600 exemption if 65 or over at end of 1963 | ☐ Yourself | ☐ Wife | |
| (c) Additional $600 exemption if blind at end of 1963 | ☐ Yourself | ☐ Wife | → |

2. Exemptions for your children and other dependents (list below)

• If an exemption is based on a multiple-support agreement of a group of persons, attach the declarations described on page 6 of instructions.

| NAME Enter figure 1 in the last column to right for each name listed (Give address if different from yours) | Relationship | ANSWER ONLY FOR DEPENDENTS OTHER THAN YOUR CHILDREN: Months lived in your home. If born or died during year also write "B" or "D" | Did dependent have income of $600 or more? | Amount YOU furnished for dependent's support. If 100% write "ALL" | Amount furnished by OTHERS including dependent |
|---|---|---|---|---|---|
| | | | | $ | $ |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

3. Total exemptions (lines 1 and 2 above). (Enter here and on line 10 or 11c, page 1) →

## ITEMIZED DEDUCTIONS—If you do not use tax table or standard deduction

If husband and wife (not legally separated) file separate returns and one itemizes deductions, the other must also itemize. If necessary, write more than one item on a line or attach additional sheets. Put name and address on all attachments.

**Contributions** (If other than money, attach required statement—see instructions)

Total (not to exceed 20% of line 9, page 1, except as described on page 7 of instructions) → $

**Interest expense**

Home mortgage

Other interest expense (specify)

Total interest →

**Taxes**

Real estate taxes — State income taxes

State and local sales taxes — Other taxes (specify)

Total taxes →

**Medical and dental expense** (Attach itemized statement. Do not enter any expense compensated by insurance or otherwise)

NOTE: If you or your wife are 65 or over, or if either has a dependent parent 65 or over, see page 8 of instructions for possible larger deduction.

| | | |
|---|---|---|
| 1. Total cost of medicine and drugs • | $ | |
| 2. Enter 1% of line 9, page 1 | | |
| 3. Subtract line 2 from line 1 | | |
| 4. Other medical, dental expenses (include hospital insurance premiums) • | | |
| 5. Total (add lines 3 and 4) | | |
| 6. Enter 3% of line 9, page 1 (see note above) | $ | |
| 7. Subtract line 6 from line 5; see page 8 of instructions for maximum limitation | | |

**Other deductions** (See page 8 of instructions)

Total other deductions →

Total itemized deductions (Enter here and on line 11a, page 1) → $

EXPENSE ACCOUNT INFORMATION

Did you receive an expense allowance or reimbursement, or charge expenses to your employer? ☐ Yes ☒ No (See page 8, instructions)

If "Yes," did you submit itemized accounting of all such expenses to your employer? ☐ Yes ☒ No

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. If prepared by a person other than taxpayer, his declaration is based on all information of which he has any knowledge.

Sign here → Charles A. Brant

Taxpayer's signature and date

If joint return, BOTH HUSBAND AND WIFE MUST SIGN

Wife's signature and date

25080 Flwell Road, Belleville, Mich.

SCHEDULE C (Form 1040)
U.S. Treasury Department Internal Revenue Service

# PROFIT (OR LOSS) FROM BUSINESS OR PROFESSION

(Sole Proprietorships)

(Compute social security self-employment tax on Schedule C-3 (Form 1040))

1964

Attach this schedule to your income tax return, Form 1040 — Partnerships, joint ventures, etc., must file on Form 1065

Name and address as shown on page 1, Form 1040

Charles A. Brant, 10205 Main Street, Maybee, Michigan

A. Principal business activity (See separate instructions) Service Station; product Gasoline
(For example: retail—hardware; wholesale—tobacco; service—repair; manufacturing—furniture; etc.)

B. Business name Charles A. Brant Service Station C. Employer Identification Number

D. Business location 10205 Main Street, Maybee, Mich.
(Number and street or rural route) (City or post office) (State)

E. Indicate method of accounting: ☒ cash; ☐ accrual; ☐ other.

| | | | |
|---|---|---|---|
| 1. Gross receipts or gross sales $ 19,837.26 Less: Returns and allowances $ | | $ 19,837. | 26 |
| 2. Inventory at beginning of year (If different than last year's closing inventory attach explanation) | 790.00 | | |
| 3. Merchandise purchased $ 13,035.60, less cost of any items withdrawn from business for personal use $ | 13,035.60 | | |
| 4. Cost of labor (do not include salary paid to yourself) | 2,209.65 | | |
| 5. Material and supplies | | | |
| 6. Other costs (explain in Schedule C-1) | | | |
| 7. Total of lines 2 through 6 | 16,035.25 | | |
| 8. Inventory at end of this year | 935.60 | | |
| 9. Cost of goods sold (line 7 less line 8) | | 15,099. | 65 |
| 10. Gross profit (subtract line 9 from line 1) | | 4,737. | 61 |
| **OTHER BUSINESS DEDUCTIONS** | | | |
| 11. Depreciation (explain in Schedule C-2) | 736.74 | | |
| 12. Taxes on business and business property (explain in Schedule C-1) | 633.36 | | |
| 13. Rent on business property | 1,200.00 | | |
| 14. Repairs (explain in Schedule C-1) | 365.82 | | |
| 15. Salaries and wages not included on line 4 (exclude any paid to yourself) | 248.90 | | |
| 16. Insurance | 25.00 | | |
| 17. Legal and professional fees | | | |
| 18. Commissions | | | |
| 19. Amortization (attach statement) | | | |
| 20. Retirement plans, etc. (other than your share—see instructions) | | | |
| 21. Interest on business indebtedness | | | |
| 22. Bad debts arising from sales or services | | | |
| 23. Losses of business property (attach statement) | | | |
| 24. Depletion of mines, oil and gas wells, timber, etc. (attach schedule) | | | |
| 25. Other business expenses (explain in Schedule C-1) | 1,256.25 | | |
| 26. Total of lines 11 through 25 | | 4,466. | 11 |
| 27. Net profit (or loss) (subtract line 26 from line 10). Enter here; on line 1, Schedule C-3; and on line 5, Part II, page 2, Form 1040 | | 271. | 50 |

## SCHEDULE C-1. EXPLANATION OF LINES 6, 12, 14, AND 25

| Line No. | Explanation | Amount | Line No. | Explanation | Amount |
|---|---|---|---|---|---|
| 12 | Sales Tax | $ 531.82 | | | $ |
| 12 | Bus. Ven. Lic. | 25.60 | | | |
| 12 | Property Tax | 75.94 | | | |
| 25 | Laundry | 359.85 | | | |
| 25 | Telephone | 91.60 | | | |
| 25 | Utilities | 310.67 | | | |
| 25 | Office supplies & Stat. | 56.80 | | | |
| 25 | Advertising | 131.18 | | | |
| 25 | Gas, Oil & equip. | 306.19 | | | |

Schedule C (Form 1040) 1963 Page 2

**SCHEDULE C-2. EXPLANATION OF DEDUCTION FOR DEPRECIATION CLAIMED ON LINE 11**

Explanation of deduction for taxpayer who has elected the alternative guidelines and accompanying procedures discussed in Revenue Procedure 62-21, the taxpayer who wishes to continue using procedures authorized prior to that revenue procedure. Where double entries appear use the first heading for the new procedure and the second heading for the older procedure.

| 1. Kind and estimated life — Description of property | 2. Cost or other basis at beginning of year — Cost or other basis | 3. Asset additions in year (amount) — Date acquired | 4. Asset retirements in year (amount) (Applicable only to Rev. Proc. 62-21) | 5. Depreciation allowed or allowable in prior years | 6. Method of computing depreciation | 7. Rate (or — Rate (%) or life | 8. Depreciation for this year |
|---|---|---|---|---|---|---|---|
| Total additional first-year depreciation (do not include in items below) | | | | | | | |
| Cash Register | 307.40 | 1961 | | 61.48 | Str.L. | 10yr. | 30.74 |
| DeSoto Sedan | 3000.00 | 1957 | | 612.00 | Str.L. | 5yrs. | 612.00 |
| Power & Hand tools | 800.00 | 1961 | | 80.00 | Str.L. | 10yrs. | 80.00 |
| Office Equip | 140.00 | 1961 | | 14.00 | Str.L. | 10yrs. | 14.00 |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| Totals | | | | | | | |
| Less: Amount of depreciation claimed elsewhere in Schedule C | | | | | | | |
| Balance—Enter here and on line 11, page 1 | | | | | | | 736.74 |
| Cost or other basis of fully depreciated assets still in use | | | | | | | |

## INVENTORY QUESTIONS

Was inventory valued at—Cost ☐; lower of cost or market ☐; other ☐. If other, attach explanation.

Have write-downs been made to inventory? Yes ☐ No ☐. If "Yes," were the write-downs computed on the basis of:

(a) ☐ Percentage reductions from parts of the inventory

(b) ☐ Percentage reductions from the total inventory

(c) ☐ Valuation of individual items.

If "a" or "b" is checked, enter the percentage of write-downs .....%. For "a," "b," or "c" enter the dollar amount of write-downs $.....

(If not available, estimate and indicate that the figure is an estimate.)

Was the inventory verified by physical count during the year?

Yes ☐ No ☐. If "No," attach explanation of how the closing inventory was determined.

Was there any substantial change in the manner of determining quantities, costs or valuations between the opening and closing inventories? Yes ☐ No ☐. If "Yes," attach explanation.

NOTE: If a direct answer cannot be given to a question, attach explanation.

## EXPENSE ACCOUNT INFORMATION

ter information with regard to yourself and ur five highest paid employees. In determin- the five highest paid employees, expense count allowances must be added to their sal- es and wages. However, the information ed not be submitted for any employee for om the combined amount is less than $10,000, for yourself if your expense account allow- ce plus line 27, page 1, is less than $10,000. e separate instructions for Schedule C, for finition of "expense account."

| Name | Expense account | Salaries and wages |
|---|---|---|
| Owner | | XXXXXXXXXXXXX |
| 1. | | |
| 2. | | |
| 3. | | |
| 4. | | |
| 5. | | |

i you claim a deduction for expenses connected with: (If answer to any question is "YES," check applicable boxes within that question.)

A hunting lodge ☐, working ranch or farm ☐, fishing camp ☐, resort property ☐, pleasure boat or yacht ☐, or other similar facility ☐? (Other than where the operation of the facility was your principal business.) ☐ YES ☐ NO

Vacations for you or members of your family, or employees or members of their families? (Other than vacation pay reported on Form W-2.) ☐ YES ☐ NO

**H.** The leasing, renting, or ownership of a hotel room or suite ☐, apartment ☐, or other dwelling ☐, which was used by you, your customers, employees, or members of their families? (Other than use by yourself or employees while in business travel status.) ☐ YES ☐ NO

**I.** The attendance of members of your family or your employees' families at conventions or business meetings? ☐ YES ☐ NO

16—73264-1

FORM 1040 U.S. Treasury Department Internal Revenue Service

# U.S. INDIVIDUAL INCOME TAX RETURN—1964

For the year beginning Jan. 1, 1964, ending Dec. 31, 19 64

Your social security number (Husband's if joint return): 375-32-6932

First name and initial (If joint return, use first names and middle initials of both): Charles J.

Last name: BRANT

Home address (Number and street or rural route): 10305 Clair St.

City, town or post office, and State: Haybec, Michigan

Postal ZIP code:

Occupation:

Wife's social security number, if joint return:

Occupation:

Please Print or Type

Enter the name and address used on your return for 1963 (if the same as above, write "Same"). If none filed, give reason.

Same

NOTE.—Married taxpayers: If you are changing from filing separate returns to a joint return or from a joint return to separate returns, enter names and addresses from the 1963 joint or separate returns.

See instructions before completing your return.

**FILING STATUS**—check one:

1a. ☑ Single
b. ☐ Married filing joint return (even if only one had income)
c. ☐ Married filing separately. If your husband or wife is also filing a return give his or her first name and social security number.
d. ☐ Unmarried Head of Household
e. ☐ Surviving widow(er) with dependent child

**EXEMPTIONS**

2a. Regular . . . . . ☐ Yourself ☐ Wife
b. Age 65 or over . . ☐ Yourself ☐ Wife
c. Blind . . . . . ☐ Yourself ☐ Wife

Enter number of boxes checked → 1

3a. Number of your dependent children *who lived with you* . . —
b. Number of other dependents (from line 3, Part I, page 2) . . —
4. Total exemptions claimed . . . . . → 1

**INCOME**—If joint return, include all income of both husband and wife

| | |
|---|---|
| 5. Wages, salaries, tips, etc. If not shown on attached Forms W-2 attach explanation | $ |
| 6. Other income (from line 9, Part II, page 2) | 363 94 |
| 7. Total (add lines 5 and 6) | |
| 8. Adjustments (from line 5, Part III, page 2) | |
| 9. Total income (subtract line 8 from line 7) | 363 94 |

**FIGURE TAX BY USING EITHER 10 OR 11**

10. Tax Table—If you do not itemize deductions and line 9 is less than $5,000, find your tax from tables in instructions. Do not use lines 11 a, b, c, or d. Enter tax on line 12.
11. Tax Rate Schedule—
a. If you itemize deductions, enter total from Part IV, page 2
If you do not itemize deductions, and line 9 is $5,000 or more enter the larger of:
(1) 10 percent of line 9 or;
(2) $200 ($100 if married and filing separate return) plus $100 for each exemption claimed on line 4, above.
The deduction computed under (1) or (2) is limited to $1,000 ($500 if married and filing separate return).
b. Subtract line 11a from line 9
c. Multiply total number of exemptions on line 4, above, by $600 — None
d. Subtract line 11c from line 11b. (Figure your tax on this amount by using tax rate schedule on page 10 of instructions. Enter tax on line 12.)

TAX COMPU-

EXHIBIT
D-327
1-6-70 gpl

**TAX—CREDITS—PAYMENTS**

| | |
|---|---|
| 12. Tax (from either Tax Table, line 10, or Tax Rate Schedule, line 11) | |
| 13. Total credits (from line 5, Part V, page 2) | None |
| 14. Income tax (subtract line 13 from line 12) | |
| 15. Self-employment tax (Schedule C-3 or F-1) | None |
| 16. Total tax (add lines 14 and 15) | |
| If either you or your wife worked for more than one employer, see page 5 of instructions. | |
| 17a. Total Federal income tax withheld (attach Forms W-2) | None |
| b. 1964 Estimated tax payments (Include 1963 overpayment allowed as a credit) (Office where paid) | |
| c. Total (add lines 17a and 17b) | None |

**TAX DUE OR REFUND**

Pay in full with this return.

| | |
|---|---|
| 18. If payments (line 17c) are less than tax (line 16), enter **Balance Due.** | |
| 19. If payments (line 17c) are larger than tax (line 16), enter **Overpayment** | None |
| 20. Amount of line 19 you wish credited to 1965 Estimated Tax | |
| 21. Subtract line 20 from 19. Apply to: ☐ U.S. Savings Bonds, with excess refunded; or ☐ Refund only. | None |

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. If prepared by a person other than taxpayer, his declaration is based on all information of which he has any knowledge.

SIGN HERE → _____ Date

If joint return, BOTH HUSBAND AND WIFE MUST SIGN even if only one had income.

Sign here _____ Signature of preparer other than taxpayer

Address and ZIP code: 20080 Lidell Ave. Belleville, Michigan

461-6321

• Attach Check or Money Order Here •

• Attach Copy B of Form W-2 Here •

Form 1040—1964 Page 2

**PART I.—EXEMPTIONS—Complete only for dependents claimed on line 3b, page 1**

| (a) NAME (If more space is needed attach schedule) | (b) Relationship | (c) Months lived in your home. If born or died during year write "B" or "D" | (d) Did dependent have income of $600 or more? | (e) Amount YOU furnished for dependent's support. If 100% write "ALL" | (f) Amount furnished by OTHERS including dependent |
|---|---|---|---|---|---|
| 1. | | | | $ | $ |
| 2. | | | | | |

3. Total number of dependents listed above. Enter here and on line 3b, page 1 →

**PART II.—INCOME FROM ALL SOURCES OTHER THAN WAGES, SALARIES, ETC.**

**Dividends and Other Distributions**

A. Gross amount
B. Nontaxable and capital gain distributions
C. Subtract item B from item A. Give details in lines 1a through 1d

**Explanation of Item C** (Write (H), (W), (J) for stock held by husband, wife, or jointly)

1a. Qualifying dividends (Name of payer)

Total

b. Subtract $100. If joint return see instructions
c. Balance
d. Nonqualifying dividends (Name of payer)

Total

2. Total (add lines 1c and 1d) →
3. Interest (Name of payer)

Total interest income →

4. Pensions and annuities, rents and royalties, partnerships, and estates or trusts (Schedule B)
5. Business income (Schedule C) 363.94
6. Sale or exchange of property (Schedule D)
7. Farm income (Schedule F)
8. Other sources (state nature)

Total other sources →

9. Add lines 2 through 8. Enter here and on line 6, page 1 → ~~363.94~~

**PART III.—ADJUSTMENTS**

1. "Sick pay" if included in line 5, page 1 (Attach Form 2440 or other required statement)
2. Moving expenses (attach Form 3903)
3. Employee business expense (attach Form 2106 or other statement)
4. Payments by self-employed persons to retirement plans, etc. (Attach Form 2950SE)
5. **Total adjustments** (lines 1 through 4). Enter here and on line 8, page 1

**EXPENSE ACCOUNT INFORMATION**—If you had an expense allowance or charged expenses to your employer, check here ☐ and see page 7 of instructions.

**PART IV.—ITEMIZED DEDUCTIONS—Use only if you do not use tax table or standard deduction.**

**Medical and dental expense.**—Attach itemized list. Do not enter any expense compensated by insurance or otherwise. NOTE: If you or your wife are 65 or over, or if either has a dependent parent 65 or over, see page 8 of instructions for possible larger deduction.

1. Enter excess, if any, of medicine and drugs over 1% of line 9, page 1
2. Other medical, dental expenses (include hospital insurance premiums)
3. Total (add lines 1 and 2)
4. Enter 3% of line 9, page 1 (see note above)
5. Subtract line 4 from line 3. see page 8 of instructions for maximum limitation

**Contributions.**—If other than money, attach required statement—see instructions.

Total (see instructions for limitations) →

**Interest:** Home mortgage
Other (Specify)

Total interest expense →

**Taxes**—Real estate
State and local gasoline
General sales
State and local income
Personal property

Total taxes →

**Other deductions** (see page 9 of instructions)

Total other deductions →

**TOTAL DEDUCTIONS** (For line 11a, page 1) →

**PART V.—CREDITS**

1. Dividends received credit: Enter smallest of (a) 2% of line 1c, Part II, (b) tax shown on line 12, page 1, less foreign tax credit, or (c) 2% of taxable income (see instructions).
2. Retirement income credit (Schedule B)
3. Investment credit (Form 3468)
4a. Foreign tax credit (Form 1116)
b. Tax-free covenant bonds credit
5. **Total credits** (add lines 1 through 4b). Enter here and on line 13, page 1

☆☆☆ U.S. GOVERNMENT PRINTING OFFICE: 1964—O-725-541

**SCHEDULE C (Form 1040)**
U.S. Treasury Department Internal Revenue Service

# PROFIT (OR LOSS) FROM BUSINESS OR PROFESSION

**(Sole Proprietorships)**

**(Compute social security self-employment tax on Schedule C-3 (Form 1040))**

1964

Attach this schedule to your income tax return, Form 1040 — Partnerships, joint ventures, etc., must file on Form 1065

Name and address as shown on page 1, Form 1040

Charles A. Brant 10205 Main St. Maybee, Michigan

**A.** Principal business activity (See separate instructions) Service Station ; product Gasoline
(For example: retail—hardware; wholesale—tobacco; services—legal; manufacturing—furniture; etc.)

**B.** Business name Charles A. Brant Service Station **C.** Employer Identification Number None

**D.** Business location 10205 Main St. Maybee, Michigan
(Number and street or rural route) (City or post office) (State)

**E.** Indicate method of accounting: [X] cash; [ ] accrual; [ ] other.

| | | | |
|---|---|---|---|
| **1.** Gross receipts or gross sales $ 20,742.17 Less Returns and allowances $ | | $ 20,742 | 17 |
| **2.** Inventory at beginning of year (If different than last year's closing inventory attach explanation) | 935.60 | | |
| **3.** Merchandise purchased $ 13,031.36, less cost of any items withdrawn from business for personal use $ | 13,031.36 | | |
| **4.** Cost of labor (do not include salary paid to yourself) | 2,811.50 | | |
| **5.** Material and supplies | | | |
| **6.** Other costs (explain in Schedule C-1) | | | |
| **7.** Total of lines 2 through 6 | 16,778.46 | | |
| **8.** Inventory at end of this year | 1,025.00 | | |
| **9. Cost of goods sold** (line 7 less line 8) | | 15,793 | 46 |
| **10. Gross profit** (subtract line 9 from line 1) | | 4,938 | 71 |
| **OTHER BUSINESS DEDUCTIONS** | | | |
| **11.** Depreciation (explain in Schedule C-2) | 736.74 | | |
| **12.** Taxes on business and business property (explain in Schedule C-1) | 1,375.42 | | |
| **13.** Rent on business property | 600.00 | | |
| **14.** Repairs (explain in Schedule C-1) | 546.80 | | |
| **15.** Salaries and wages not included on line 4 (exclude any paid to yourself) | | | |
| **16.** Insurance | 229.00 | | |
| **17.** Legal and professional fees | | | |
| **18.** Commissions | | | |
| **19.** Amortization (attach statement) | | | |
| **20.** Retirement plans, etc. (other than your share—see instructions) | | | |
| **21.** Interest on business indebtedness | | | |
| **22.** Bad debts arising from sales or services | | | |
| **23.** Losses of business property (attach statement) | | | |
| **24.** Depletion of mines, oil and gas wells, timber, etc. (attach schedule) | | | |
| **25.** Other business expenses (explain in Schedule C-1) | 1,136.81 | | |
| **26.** Total of lines 11 through 25 | | 4,624 | 77 |
| **27. Net profit (or loss)** (subtract line 26 from line 10). Enter here; on line 1, Schedule C-3; and on line 5, Part II, page 2, Form 1040 | | 363 | 94 |

**SCHEDULE C-1. EXPLANATION OF LINES 6, 12, 14, AND 25** — C

| Line No. | Explanation | Amount | Line No. | Explanation | Amount |
|---|---|---|---|---|---|
| 12 | Sales Tax | $ 556.74 | | | $ |
| 12 | Gas Tax | 712.97 | | | |
| 12 | Bus Vehicle. Lic. | 28.80 | | | |
| 12 | Property tax | 76.91 | | | |
| 25 | Laundry | 236.38 | | | |
| 25 | Telephone | 92.39 | | | |
| 25 | Utilities | 309.92 | | | |
| 25 | Office supplies & stat. | 49.26 | | | |
| 25 | Advertising | 135.22 | | | |
| 25 | gas Oil & Upkeep | 313.64 | | | |

Schedule C (Form 1040) 1964 Page 2

**SCHEDULE C-2. EXPLANATION OF DEDUCTION FOR DEPRECIATION CLAIMED ON LINE 11**

This schedule is designed for taxpayers using the alternative guidelines and administrative procedures described in Revenue Procedure 62-21 as well as for those taxpayers who wish to continue using procedures authorized prior to the revenue procedure. Where double headings appear use the first heading for the new procedure and the second heading for the older procedure.

| 1. Group and guideline class OR Description of property | 2. Cost or other basis at beginning of year OR Cost or other basis | 3. Asset additions in year (amount) OR Date acquired | 4. Asset retirements in year (amount) (Applicable only to Rev. Proc. 62-21) | 5. Depreciation allowed or allowable in prior years | 6. Method of computing depreciation | 7. Class life OR Rate (%) or life | 8. Depreciation for this year |
|---|---|---|---|---|---|---|---|
| 1. Total additional first-year depreciation (do not include in items below) → | | | | | | | |
| Cash register | 307.40 | 1961 | | 92.22 | St.L. | 10yrs | 30.74 |
| DeSoto Sedan | 3,600.00 | 1957 | | 1,316.22 | " | 5yrs | 856612.00 |
| Power & Hand tools | 800.00 | 1961 | | 160.00 | " | 10yrs | 80.00 |
| Office Equipment | 140.00 | 1961 | | 28.00 | " | 10yrs | 14.00 |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| 2. Totals | | | | | | | |
| 3. Less: Amount of depreciation claimed elsewhere in Schedule C | | | | | | | |
| 4. Balance—Enter here and on line 11, page 1 | | | | | | | 736.74 |
| 5. Cost or other basis of fully depreciated assets still in use | | | | | | | |

**INVENTORY QUESTIONS**

1. Was inventory valued at—Cost ☐, lower of cost or market ☐, other ☐. If other, attach explanation.
2. Have write-downs been made to inventory? Yes ☐ No ☐. If "Yes," were the write-downs computed on the basis of:
   (a) ☐ Percentage reductions from parts of the inventory
   (b) ☐ Percentage reductions from the total inventory
   (c) ☐ Valuation of individual items.
   If "a" or "b" is checked, enter the percentage of write-downs ____ %. For "a," "b," or "c" enter the dollar amount of write-downs $ ____
   (If not available, estimate and indicate that the figure is an estimate.)
3. Was the inventory verified by physical count during the year?
   Yes ☐ No ☐. If "No," attach explanation of how the closing inventory was determined.
4. Was there any substantial change in the manner of determining quantities, costs or valuations between the opening and closing inventories? Yes ☐ No ☐. If "Yes," attach explanation.

NOTE: If a direct answer cannot be given to a question, attach explanation.

**EXPENSE ACCOUNT INFORMATION**

Enter information with regard to yourself and your five highest paid employees. In determining the five highest paid employees, expense account allowances must be added to their salaries and wages. However, the information need not be submitted for any employee for whom the combined amount is less than $10,000, or for yourself if your expense account allowance plus line 27, page 1, is less than $10,000. See separate instructions for Schedule C, for definition of "expense account."

| Name | Expense amount | Salaries and Wages |
|---|---|---|
| Owner | | XXXXXXXXXXXXXX |
| 1. | | |
| 2. | | |
| 3. | | |
| 4. | | |
| 5. | | |

Did you claim a deduction for expenses connected with: (If answer to any question is "YES," check applicable boxes within that question.)

**F.** A hunting lodge ☐, working ranch or farm ☐, fishing camp ☐, resort property ☐, pleasure boat or yacht ☐, or other similar facility ☐? (Other than where the operation of the facility was your principal business.) ☐ YES ☐ NO

**G.** Vacations for you or members of your family, or employees or members of their families? (Other than vacation pay reported on Form W-2) ☐ YES ☐ NO

**H.** The leasing, renting, or ownership of a hotel room or suite ☐, apartment ☐, or other dwelling ☐, which was used by you, your customers, employees, or members of their families? (Other than use by yourself or employees while in business travel status.) ☐ YES ☐ NO

**I.** The attendance of members of your family or your employees' families at conventions or business meetings? ☐ YES ☐ NO

10—70044-1

64

| | |
|---|---|
| Sales | 29,742.17 |
| Rent | 3,751.25 |
| Interest | 16,841.36 |
| [illegible] | 513.64 |
| [illegible] | 34,715 |
| [illegible] | 66.14 |
| [illegible] | 1025.00 |

(Tr-?)

• • •

Q. Do you know the Defendant in this case, Mrs. Mary McKee?

A. Yes.

Q. How long have you known her?

A. I first went to her in—it would be in 1963.

Q. Why?

A. I went to her to have income tax filed.

• • •

# Auditors Report

19a

Form T-19 mailed OCT 31 1966

## TRANSMITTAL LETTER

TOTAL TIME SPENT: 122 HRS.

NAME AND ADDRESS ON LATEST RETURN ENCLOSED
Charles A. Brant
10205 Main Street
Maybee, Michigan

PLACE OF AUDIT: Detroit, Michigan
DATE OF REPORT: 9/23/66
TYPE AUDIT: X FIELD ☐ OFFICE
RETURNS FORM NO.: 1040
DATE AGREEMENT FILED: 9-16-66
COMPUTATION VERIFIED: 9-19-66 LP

PRESENT NAME AND ADDRESS, IF DIFFERENT FROM THAT ON LATEST RETURN
Charles A. Brant
2130 Soda, Mayfic Road
Monroe, Michigan 48161

RELATED CASES

DISTRICT DIRECTOR OF INTERNAL REVENUE:
Detroit, Michigan

| YEAR ENDED (OR PERIOD) | INCOME TAX DEFICIENCY | INCOME TAX OVERASSESSMENT | OTHER TAX (Specify) DEF. OR (O/A) | PENALTIES Sec 6651 | Penalty PART OF FIDUC. INCOME - SUCH OR (DECR.) Sec 6653(a) | DISTRICT WHERE FILED |
|---|---|---|---|---|---|---|
| 12/31/62 | $ 708.70 | $ | $ | $ 61.76 | $ 34.74 | Detroit |
| 12/31/63 | 580.94 | | | 145.24 | 29.05 | " |
| 12/31/64 | 810.37 | | | 202.59 | 40.52 | " |
| TOTALS | $ 2,100.01 | $ | $ | 409.59 | $ 104.31 | NET DEFICIENCY (OVERASS.) $ 2,613.91 |

NATURE OF BUSINESS: Lumber Station

EXAMINATION DISCUSSED WITH: Charles A. Brant - Taxpayer

LAST PRIOR EXAMINATION DATE: None

YEARS (PERIODS) COVERED:

YEARS REEXAMINED OR SUPPLEMENTED:

EXAMINER:

ACCOUNTING METHOD: Normal

BAD DEBT METHOD - HOW ELECTED: None

CONSENTS (Expiration dates): 1962 return 12/31/66

CLAIMS (Dates, years covered):

OTHER FACTORS EXTENDING STATUTORY PERIOD OF LIMITATIONS
1963 return filed 8/13/65
1964 return filed 9/2/65

REGIONAL OR NATIONAL OFFICE CORRESPONDENCE

OTHER INFORMATION (Attach additional sheets if necessary)

See T-3 for other information.

ENCLOSURES
Form 1040 for years ended 12/31/62
" " " " " 12/31/63
" " " " " 12/31/64
Form 870 waiver
RCS(W-6) 4-331

INTERNAL REVENUE AGENT

APPROVED BY (Signature of reviewer)
[illegible]

# Auditors Report

## TRANSMITTAL LETTER SUPPLEMENT

TAXPAYER'S NAME: Charles A. Brost — T-2

CHECK THE FOLLOWING ITEMS. IF ADDITIONAL COMMENT IS REQUIRED, EXPLANATION SHOULD BE MADE IN THE TRANSMITTAL LETTER AND SHOULD BE KEYED TO NUMBERS (1, 1(a), 2, ETC.) IDENTIFYING QUESTIONS. IF A QUESTION IS NOT APPLICABLE, WRITE "N.A." IN THE "NO" BLOCK.

| SECTION A (Applicable To All Reports) | YES | NO |
|---|---|---|
| 1. Is fraud involved in this case? | | X |
| If "Yes" (a) Did Intelligence participate in examination? | | |
| (b) Is this a prosecution case? | | |
| (c) Is clearance from Intelligence enclosed? | | |
| (d) Is supporting confidential information and evidence to support the fraud penalty included in T-letter? | | |
| 2. Is this a net worth case? | | X |
| If "Yes", is signed net worth statement included in report? | | |
| 3. Were records found to be adequate? | | X |
| If "No", has Form 1737 been prepared? | | X |
| 4. Were Forms 917 and or lead sheets prepared and turned over to group supervisor? | | X |
| 5. Were any inequities, abuses, or loopholes in the law discovered during this examination? | | X |
| If "Yes", have you submitted Form RC-CIN-GEN 265 required by RC-CIN-MEMO 48-7? | | |
| 6. Was taxpayer's retained copy of current year return inspected? | X | |
| If "Yes", was Form 231 prepared? | X | |
| 7. Was taxpayer's retained copy of current year return examined? | | X |
| If "Yes", were prepayment credits verified? | | |
| 8. Is transferor-transferee liability involved in this case? | | X |
| If "Yes", has appropriate action been taken against the transferees? | | |
| 9. Was a claim disallowed in this case? | | X |
| If "Yes", was Form 2297 secured? | | |
| 10. Have Forms 1331 been prepared for each recommended overassessment (except restricted interest cases)? | | NA |

| SECTION B (Applicable to Individuals, Fiduciaries and Partnerships Only) | YES | NO |
|---|---|---|
| 11. Has self-employment tax been changed? | X | |
| If "Yes", have Forms 885-F been prepared and case flagged? | X | |
| 12. Is Partnership, Fiduciary or Form 1120-S income reported? | | X |
| If "Yes", has Form 1041, 1065 or 1120-S (a) Been examined? | | |
| (b) Inspected from retained copies? | | |
| 13. Is this a report on a Partnership or Fiduciary? | | X |
| If "Yes", have returns of partners or beneficiaries (a) Been examined? | | |
| (b) Inspected from retained copies? | | |
| SECTION C (Applicable to Corporations Only) | | |
| 14. Is taxpayer apparently liable for Section 531 surtax? | | |
| If "Yes", and surtax is not recommended, explain why in "T" Letter. | | |
| 15. Is this a closely held corporation? | | |
| If "Yes" (a) Are there separate reports on officer-stockholders enclosed? | | |
| (b) Or, were retained copies of individuals inspected and accepted? | | |
| 16. Are officers' salaries reasonable? | | |
| 17. Were travel, entertainment and selling expenses (a) Verified in detail? | | |
| (b) Test checked? | | |
| 18. Does taxpayer qualify as a personal holding company? (For local use) | | |

SECTION D Affirmative answers to the following require comments in Preliminary Statement:

| | | |
|---|---|---|
| 19. Was taxpayer liable for employment, excise or documentary stamp taxes? | | X |
| 20. Was taxpayer complying with Depositary Receipt Procedures prescribed by regulations under Section 6302(c)? | | N/A |
| 21. Was informal conference declined or held after issuance of 10-day letter? | | X |
| 22. Was Form 843, Form 1045, or Form 1139 considered in this examination? | | X |
| 23. Was taxpayer liable for penalties under Section 6651(a), 6653(a), 6653(b), 6654(a), or 6655? | X | |
| 24. Were there any changes in capital structure during the period covered by this examination? | | X |

NOTE: Unusual items not changed and items listed on Classifier's Check Sheet must be commented on in the Transmittal Letter unless they are discussed in Explanation of Item Adjustment.

Transmittal Letter
Charles A. Brant
years Ended 12/31/62, 12/31/63 & 12/31/64

The Taxpayers books were found to be incomplete, consisting of only a paid-out and income ledger. The Taxpayer did however retain the invoices on all purchases for the years 1963 and 1964. The examination was made from these invoices with the income being based on the purchases by the mark-up method.

The returns for the years involved were prepared for the Taxpayer by Mary McKee of 26080 Edsell Road, Belleville, Michigan. All three returns were filed late with the Taxpayer claiming that the 1963 does not contain his signature. Further information regarding this was secured by the Intelligence Division.

The time required to complete this case is considered fair in view of the fact that the Taxpayer and the agent by the time allowed that this case be delayed until they received the final results of the examination.

Copy of report is requested by the Intelligence Division

All other items mentioned upon in this report were examined and found to be correct as filed & changed per attached schedules of Adj.

James C. Pugh
Internal Revenue Agent

22a

# Auditors Report

| FORM 1907 (REV. DEC. 1958) TRANSLUCENT | U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE<br>**PRELIMINARY STATEMENT** | DATE OF REPORT<br>9/23/66 |
|---|---|---|

| NAME OF TAXPAYER(S) | NAME OF EXAMINER |
|---|---|
| Charles A. Brant | James C. Pugh |

**SUMMARY OF PROPOSED ADJUSTMENTS**

| YEAR ENDED ~~OR PERIOD~~ | INCOME TAX | | OTHER TAX (Specify) DEF. OR (O/A) | PENALTIES - INCREASE OR (DECREASE) | PARTNERSHIP OR FIDUCIARY INCOME INCREASE OR (DECREASE) |
|---|---|---|---|---|---|
| | DEFICIENCY | OVERASSESSMENT | | | |
| 12/31/62 | $ 708.76 | $ | $ | $ 96.50 | $ |
| 12/31/63 | 580.94 | | | 174.29 | |
| 12/31/64 | 810.37 | | | 243.11 | |
| | | | | | |
| TOTALS | $2100.01 | $ | $ | $ 513.90 | $ |

GOVERNMENT EXHIBIT 28 FOT 1-6-70

| NET DEFICIENCY (~~OVERASSESSMENT~~) | AGREEMENT SECURED | NAME OF PERSON WITH WHOM FINDINGS DISCUSSED |
|---|---|---|
| $ 2,613.91 | yes | Chas. A. Brant Taxpayer |

PRINCIPAL CAUSES OF CHANGES, AND OTHER INFORMATION

The principle cause of change has resulted from the omission of the Schedule C profit and loss statement as specified within this report. The Taxpayer is hereby notified that in accordance with Section 6001 of the Internal Revenue Code, "Every person liable for tax shall keep such records. The method used shall clearly reflect the income and expenses of the Taxpayer.

The tax returns filed for each of the years in question were filed after the due date. The filing of the due dates of each return and the natur

(see P-2)

SCHEDULES AND/OR EXHIBITS ATTACHED

schedules 1 through 9

Exhibits - A, B & C

Pages 1 through 18

* U. S. GOVERNMENT PRINTING OFFICE 1958 O—490442

Preliminary Statement
Charles A. Grant
Years Ended 12/31/62, 12/31/63, & 12/31/64

date filed.

| year | Due date of return | Date filed | Months late |
|---|---|---|---|
| 1962 | 4/15/63 | 6/6/63 | 2 months |
| 1963 | 4/15/64 | 8/13/65 | 16 months |
| 1964 | 4/15/65 | 9/2/65 | 5 months |

The above months late has been figured on the basis of a month or any portion of a month as considered as a full month. In accordance with Section 6651 of the 1954 Internal Revenue Code, an addition to tax in the amount of 5 % per month or fraction thereof, but not to exceed 25% shall be made to the tax due on any required returns not filed on the date prescribed, unless such failure is due to reasonable cause. No reasonable cause for failure to file these returns on time was shown. The Taxpayer is hereby notified that the responsibility for filing Federal Income Tax Returns is that of each individual taxpayer. It is his responsibility also to see that the returns are timely filed and correct. Due to the negligence of the Taxpayer in verifing the timely filing of the returns and the correctness of the returns when filed, the penalty under Section 6653 (a) of the 1954 Internal Revenue Code has been added to the tax due. This addition is in the amount of 5% of the underpayment for each year involved.

(see P.3)

Auditors Report.

Preliminary Statement
Charles A Grant
Year Ended 12/31/62, 12/31/63 & 12/31/64

The Taxpayer operates a small gasoline and automobile repair shop on a rented lot. During the years under examination, he was unmarried and filed his returns as a single individual.

Payment of the deficiencies, penalties and interest was received for the years 1962 and 1963 by a personal check as follows:

| | | | |
|---|---|---|---|
| Year 1962 - | Deficiency | $ 708.20 | |
| | Section 6653(a) | 34.74 | |
| | Section 6651 | 61.76 | |
| | Interest | 144.38 | |
| | Total | | $ 949.51 |
| Year 1963 - | Deficiency | $ 580.94 | |
| | Section 6653(a) | 29.05 | |
| | Section 6651 | 145.24 | |
| | Interest | 84.24 | |
| | Total | | $ 839.47 |
| | Total of check received | | $ 1,789.98 |

No payroll tax returns were required to be filed.

FORM 1908 (REV. JULY 1964) — U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE — **ADJUSTMENTS TO INCOME** — SCHEDULE 1

NAME OF TAXPAYER: Charles A. Brant

TAXABLE YEAR ENDED: 12/31/62

| | | | |
|---|---|---|---|
| 1. Adjusted gross ~~as taxable~~ income reported on return ~~as previously adjusted~~ | | | $ 1,087.40 ✓ |
| 2. Additional income and unallowable deductions | | | |
| a | Converted profit (or loss) | $ 2,899.10 | ✓ |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | ✓ 2,899.10 |
| 3. **TOTAL** - *(Line 1 and items under line 2)* | | | $ 3,986.50 ✓ |
| 4. Nontaxable income and additional deductions | | | |
| | | $ | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| 5. Corrected adjusted gross ~~as taxable~~ income *(Line 3 minus total of items under line 4)* | | | $ 3,986.50 ✓ |

| GAINS OR (LOSSES) | NET GAIN OR (LOSS) UNDER SECTION 1231 | NET LONG-TERM CAPITAL GAIN OR (LOSS) | NET SHORT-TERM CAPITAL GAIN OR (LOSS) |
|---|---|---|---|
| 6. Gains or (Losses) reported on return | $ | $ | $ |
| INCREASE (DECREASE) | | | |
| 7. Gains or (Losses) as corrected | $ | $ | $ |

FORM 1908 (REV. 7-64)
Page _____

U. S. GOVERNMENT PRINTING OFFICE : 1964 O—158-025

# Auditors Report

| FORM 886-A (REV. MAY 1960) TRANSLUCENT | U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE<br>EXPLANATION OF ITEMS | SCHEDULE NO. OR EXHIBIT<br>1-A |
|---|---|---|
| NAME OF TAXPAYER<br>Charles A. Grant | | YEAR ENDED/PERIOD<br>12/31/62 |

a/ Constant profit (or loss) $2,899.10.

| | |
|---|---|
| Per return | $ (187.60)a/ |
| As corrected | $711.50. |
| Net adjustment | $ 2,599.10 |

The income and expenses from the operation of the service station has been corrected as shown on Exhibit A. In addition an audit of the personal bank account disclosed a deficiency in the amount of $86.40. This amount was not paid or incurred by the Taxpayer as an operating expense. The inclusion of this item as an adjustment has been classified as other income. It was also included in previous years as an adjustment as shown on Exhibit A. It is noted that the original amounts of

FORM 1909 (REV. DEC. 1958) TRANSLUCENT

U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE

## COMPUTATION OF INCOME TAX - INDIVIDUALS

| SCHEDULE | NAME OF TAXPAYER(S) | YEAR ENDED (~~period~~) |
|---|---|---|
| 2 | Chas A. Brant | 12/31/62 |

| | | |
|---|---|---|
| 1. Corrected adjusted gross ~~income~~ income (From schedule 1) | | $ 3986.50 |
| 2. If tax table is applicable: Tax on corrected adjusted gross income with 1 exemptions | | 615.00 |
| 3. If tax table is NOT applicable: A. Tax on corrected taxable income if line 1 is not over $2,000—20% thereof | | |
| B. Tax on corrected taxable income if line 1 is over $2,000—computed for: ☐ SINGLE PERSON ☐ SURVIVING SPOUSE ☐ HEAD OF A HOUSEHOLD ☐ MARRIED PERSON FILING SEPARATELY ☐ MARRIED PERSONS FILING JOINTLY | | |
| 4. Alternative tax, if computed (From schedule ) | | |
| 5. Corrected applicable tax: Line 2, 3, or 4 | | 615.00 |
| 6. Less: A. Dividends received credit | $ | |
| B. Retirement income credit | | |
| C. Other allowable credits if deductions itemized: d. Investment Credit (See Sch. 2 A) | 47.60 ✓ | 47.60 |
| 7. Balance: Line 5 less total of amounts in line 6 | | 567.40 |
| 8. Plus: Self-Employment tax ~~shown on return or~~ as corrected (Schedule 3) | | 127.44 |
| 9. Total corrected income tax liability | | 694.84 |
| 10. Total tax shown on return ~~or as previously adjusted~~ | | 76.00 |
| 11. Statutory deficiency ~~or (overassessment)~~ - difference between Lines 9 and 10 | | $ 618.84 |

### COMPUTATION OF ADDITIONAL TAX DUE OR OF NET OVERASSESSMENT

| | SHOWN ON YOUR RETURN | | AS CORRECTED | |
|---|---|---|---|---|
| 12. Total income tax liability | | $ 76.00 | | $ 694.84 ✓ |
| 13. Less net adjustments: A. Income tax withheld | $ 77.26 ✓ | | $ 77.26 ✓ | |
| B. F.I.C.A. tax credit | 89.86 ✓ | | | |
| C. Payments on estimated tax | | | | |
| D. Regulated investment company undistributed capital gain credit | | | | |
| E. Previous assessments | | | | |
| F. Sum of amounts A through E | 167.12 ✓ | | 77.26 | |
| G. Deduct previous refunds and/or credits | 91.12 ✓ | 76.00 ✓ | 91.12 ✓ | (13.86) ✓ |
| 14. Additional tax ~~or (Net overassessment)~~ | | | | $ 708.70 |
| 15. Penalties or additions to the tax, if any (5% of $694.84) | Sections 6653(a) & 6651 (10% of [$694.84 - 77.26]) | | | $ 96.50 |

# Auditors Report

FORM 885-P (REV. NOV. 1953) — U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE

## SELF-EMPLOYMENT TAX ADJUSTMENT

| 1. SELF-EMPLOYED TAXPAYER (Print) | DOC. LOCATOR NO. | DATE OF REPORT | YEAR | SCHED. NO. |
|---|---|---|---|---|
| Charles D Orcutt | 35 213 417 | | 19 52 | 3 |
| 2. HOME ADDRESS: 230 Elm Meadow Road, Mercer, Mich. 48163 | BUSINESS ACTIVITY: Service Station | | SOCIAL SECURITY NO.: 216 32 6772 | |

| 3. FOR S. S. A. USE ONLY | INFORMATION PREVIOUSLY REPORTED | NET EARNINGS | WAGES | SELF-EMPLOYMENT INCOME | FOR S. S. A. USE ONLY |
|---|---|---|---|---|---|
| | 4. | (1961) | 5. 1,200.00 | 6. — | 14. |
| | ADJUSTMENTS 7. | 2,511.16 | 8. — | (If item 6 less than $400, enter "NONE") 11. | |
| | CORRECT INFORMATION 9. | 2,711.36 | 10. 1,200.00 | 12. 2,711.36 | |

12. Was audit determination made within 3 years of due date of return? (a) ☐ Yes (b) ☒ No (Months)

13. APPLICABLE MAXIMUM:

| | |
|---|---|
| 1951-1954 | $3600 |
| 1955-1958 | 4200 |
| 1959 & ON | 4800 |

| | | |
|---|---|---|
| 7200 — see line 10 | — see line 11 | 1 cents (item 11 not to exceed that amount) |
| 4,800.00 | 1,375.00 | 2,711.36 |

SELF-EMPLOYMENT TAX [ ] % OF ITEM 10 ..... $ 137.94

### ADJUSTMENTS TO BUSINESS, FARM, AND SELF-EMPLOYMENT INCOME AND EXPENSES

| ITEM | REPORTED | CORRECTED | ADJUSTMENT |
|---|---|---|---|
| Revised Profit (on 1042) | $ (1961) | $ 2,711.36 | $ 2,511.16 |
| | | | |
| | | | |
| | | | |
| NET ADJUSTMENT TO SELF-EMPLOYMENT INCOME | | | $ 2,511.16 |

EXPLANATIONS AND REMARKS:

Profit (on 1042) statement revised to reflect correct income and expenses from Service Station.

## SCHEDULE OF TAX RATES

| YEAR | RATE OF TAX | MAXIMUM AMOUNT OF SELF-EMPLOYMENT INCOME | MAXIMUM SELF-EMPLOYMENT TAX |
|---|---|---|---|
| Beginning after 12-31-50 but before 1-1-54 | 3.75% | $4800 | $180 |
| Beginning after 12-31-53 but before 1-1-57 | 4.5% | $4800 | $216 |
| Beginning after 12-31-56 but before 1-1-60 | 4.7% | $4800 | $225.60 |
| Beginning after 12-31-59 but before 1-1-63 | 5.4% | $4800 | $259.20 |
| Beginning after 12-31-62 but before 1-1-66 | 6.2% | $4800 | $297.60 |
| Beginning after 12-31-65 | 6.9% | $4800 | $331.20 |

FORM 885-P (REV. 11-61)

| FORM 1908 (REV. JULY 1964) | U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE<br>**ADJUSTMENTS TO INCOME** | SCHEDULE 4 |
|---|---|---|
| NAME OF TAXPAYER<br>Clara A. Brant | | TAXABLE YEAR ENDED<br>12/31/63 |

1. Adjusted gross [redacted] income reported on return [redacted] ..... $ 27150

2. Additional income and unallowable deductions

| | | | |
|---|---|---|---|
| a | Cap. Gain Profit (ca loss) | $ 2,818.66 | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | = 2818.66 |

3. **TOTAL** - *(Line 1 and items under line 2)* $ 3,090.16

4. Nontaxable income and additional deductions

| | | |
|---|---|---|
| | | $ |
| | | |
| | | |
| | | |
| | | |
| | | |

5. Corrected adjusted gross [redacted] income *(Line 3 minus total of items under line 4)* $ 3,090.16

| GAINS OR (LOSSES) | NET GAIN OR (LOSS) UNDER SECTION 1231 | NET LONG-TERM CAPITAL GAIN OR (LOSS) | NET SHORT-TERM CAPITAL GAIN OR (LOSS) |
|---|---|---|---|
| 6. Gains or (Losses) reported on return | $ | $ | $ |
| INCREASE (DECREASE) | | | |
| 7. Gains or (Losses) as corrected | $ | $ | $ |



U.S. GOVERNMENT PRINTING OFFICE: 1964 O—[redacted]

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Auditors Report

| FORM 886-A (REV. MAY 1960) TRANSLUCENT | U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE<br>EXPLANATION OF ITEMS | SCHEDULE NO. 4-A |
|---|---|---|
| NAME OF TAXPAYER<br>Charles A. Brant | | YEAR ENDED<br>12/31/63 |

Net Corrected Profit (or Loss) $2,818.66

Corrected [illegible] $ 3,028.16

Less [illegible] 209.5

Net adjusted Profit $ 2,818.66

The amount reported upon the original return has been corrected as shown on Exhibit A, attached as part of the corrected profit (or loss) statement in the disallowance of deductible amount of $2,209.65. This amount has been increased by the Taxpayer's claiming office to the figure claimed by the Taxpayer on the return as filed. Other changes have been made as shown on Exhibit A to reflect the actual business profit.

FORM 1909 (REV. DEC. 1958) TRANSLUCENT

U.S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE

## COMPUTATION OF INCOME TAX - INDIVIDUALS

| SCHEDULE | NAME OF TAXPAYER(S) | YEAR ENDED |
|---|---|---|
| 5 | Charles A. Grant | 12/31/63 |

| | | | |
|---|---|---|---|
| 1. Corrected adjusted gross [redacted] income (From schedule 4) | | | $ 3,090.16 - |
| 2. If tax table is applicable: Tax on corrected adjusted gross income with 1 exemptions | | | 437.00 |
| 3. If tax table is N/T applicable: A. Tax on corrected taxable income at line 1 is not over $2,000—20% thereof | | | |
| B. Tax on corrected taxable income at line 1 is over $2,000—computed for: ☐ SINGLE PERSON ☐ SURVIVING SPOUSE ☐ HEAD OF A HOUSEHOLD ☐ MARRIED PERSON FILING SEPARATELY ☐ MARRIED PERSONS FILING JOINTLY | | | |
| 4. Alternative tax, if computed (From schedule ) | | | |
| 5. Corrected applicable tax: Line 2, 3, or 4 | | | 437.00 |
| 6. Less: A. Dividends received credit | | $ | |
| B. Retirement income credit | | | |
| C. Other allowable credits or deductions itemized: Overstatement of Contributions | | 22.93 | 22.93 |
| 7. Balance: Line 5 less total of amounts on line 6 | | | 414.07 |
| 8. Plus: Self-Employment tax [redacted] as corrected (Schedule 6) | | | 166.57 - |
| 9. Total corrected income tax liability | | | 580.94 |
| 10. Total tax shown on return [redacted] | | | 0 |
| 11. Statutory deficiency [redacted] - difference between Lines 9 and 10 | | | $ 580.94 |

### COMPUTATION OF ADDITIONAL TAX DUE OR OF NET OVERASSESSMENT

| | SHOWN ON YOUR RETURN | | AS CORRECTED | |
|---|---|---|---|---|
| 12. Total income tax liability | | $ 0 | | $ 580.94 - |
| 13. Less net adjustments: A. Income tax withheld | $ | | $ | |
| B. F.I.C.A. tax credit | | | | |
| C. Payments on estimated tax | | | | |
| D. Regulated investment company undistributed capital gain credit | | | | |
| E. Previous assessments | | | | |
| F. Sum of amounts A through E | 0 | | 0 | |
| G. Deduct previous refunds and/or credits | | 0 | | 0 |
| 14. Additional tax on [redacted] | | 0 | | 580.94 |
| 15. Penalties or additions to the tax, if any | Sec. Sec. 6653(a) & 6651 5% 25% | | | $ 174.29 |

# Auditors Report

FORM 885-P (REV. NOV. 1963) — U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE

## SELF-EMPLOYMENT TAX ADJUSTMENT

| 1. SELF-EMPLOYED TAXPAYER (Print) | DOC. LOCATOR NO. | DATE OF REPORT | YEAR | SCHED. NO. |
|---|---|---|---|---|
| Charles A Scott | DE-5 3357 | | 1963 | 6 |

| 2. HOME ADDRESS | BUSINESS ACTIVITY | SOCIAL SECURITY NO. |
|---|---|---|
| 2130 Eden Maycee Road Warren Michigan 48161 | Service Station | 376 32 6732 |

| 3. FOR S. S. A. USE ONLY | | NET EARNINGS | WAGES | SELF-EMPLOYMENT INCOME | FOR S. S. A. USE ONLY |
|---|---|---|---|---|---|
| | INFORMATION PREVIOUSLY REPORTED | 4. 271.50 | 5. ← | 6. 271.50 | 14. |
| | ADJUSTMENTS | 7. 2,818.66 | 8. ← | (If Item 9 less than $400, enter "NONE") 11. | |
| | CORRECT INFORMATION | 9. 3,090.16 | 10. ← | 3,090.16 | |

| 12. Was audit determination made within 3 years of due date of return? | 13. APPLICABLE MAXIMUM: | | | | |
|---|---|---|---|---|---|
| (a) X Yes (b) ☐ No _____ (Initials) | 1951-1954 | $3600 | Amt. on line for year | Less Item 10 | = Equals (Item 11 not to exceed this amount) |
| | 1955-1958 | 4200 | | | |
| | 1959 & ON | 4800 | 4,800.00 | ← | 4,800.00 |

SELF-EMPLOYMENT TAX (5.4 % OF ITEM 11) ..... $ 166.57

### ADJUSTMENTS TO BUSINESS, FARM, AND SELF-EMPLOYMENT INCOME AND EXPENSES

| ITEM | REPORTED | CORRECTED | ADJUSTMENT |
|---|---|---|---|
| Revised Profit (or loss) | $ 271.50 | $ 3,090.16 | $ 2,818.66 |
| | | | |
| | | | |
| | | | |
| NET ADJUSTMENT TO SELF-EMPLOYMENT INCOME | | | $ 2,818.66 |

EXPLANATIONS AND REMARKS:

Profit (or loss) Statement revised to reflect correct income and expenses from Service Station.

### SCHEDULE OF TAX RATES

| YEAR | RATE OF TAX | MAXIMUM AMOUNT OF SELF-EMPLOYMENT INCOME | MAXIMUM SELF-EMPLOYMENT TAX |
|---|---|---|---|
| Beginning after 12-31-50 but before 1-1-60 | 3.75% | $4800 | $180 |
| Beginning after 12-31-59 but before 1-1-62 | 4.5% | $4800 | $216 |
| Beginning after 12-31-61 but before 1-1-63 | 4.7% | $4800 | $225.60 |
| Beginning after 12-31-62 but before 1-1-66 | 5.4% | $4800 | $259.20 |
| Beginning after 12-31-65 but before 1-1-68 | 6.2% | $4800 | $297.60 |
| Beginning after 12-31-67 ..... | 6.9% | $4800 | $331.20 |

GPO 693 O - 715 748

FORM 885-F (REV. 11-63)

# Auditors Report

12

FORM 1908 (REV. JULY 1964)

U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE

## ADJUSTMENTS TO INCOME

SCHEDULE 7

NAME OF TAXPAYER: Charles A Pruitt

TAXABLE YEAR ENDED: 12/31/64

1. Adjusted gross ~~or taxable~~ income reported on return ~~or as previously adjusted~~ ..... $ 363.44

2. Additional income and unallowable deductions

| | | | |
|---|---|---|---|
| a/ | Corrected profit (or loss) | $ 3,883.64 ✓ | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | 3,883.64 ✓ |

3. TOTAL - *(Line 1 and items under line 2)* $ 4,247.58

4. Nontaxable income and additional deductions

| | | | |
|---|---|---|---|
| | | $ | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

5. Corrected adjusted gross ~~or taxable~~ income *(Line 3 minus total of items under line 4)* $ 4,247.58

| GAINS OR (LOSSES) | NET GAIN OR (LOSS) UNDER SECTION 1231 | NET LONG-TERM CAPITAL GAIN OR (LOSS) | NET SHORT-TERM CAPITAL GAIN OR (LOSS) |
|---|---|---|---|
| 6. Gains or (Losses) reported on return | $ | $ | $ |
| INCREASE (DECREASE) | | | |
| 7. Gains or (Losses) as corrected | $ | $ | $ |

FORM 1908 (REV. 7-64)

Page _____

U.S. GOVERNMENT PRINTING OFFICE: 1964 O—730-020

| FORM 886-A (REV. MAY 1960) TRANSLUCENT | U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE<br>EXPLANATION OF ITEMS | SCHEDULE NO. ~~OR EXHIBIT~~<br>7-A |
|---|---|---|
| NAME OF TAXPAYER<br>Charles A. Brant | | YEAR ENDED/~~PERIOD~~<br>12/31/64 |

a/ Correction profit (Loss) 3, c & 3.64

As corrected $4,247.5.

Personal -

Net operating loss $3,883.64

The income and expenses for the operation of the service station have been corrected as shown on Exhibit C. Personal expenses claimed were disallowed as they were not ordinary and necessary expenses of doing business as provided by Sec. 162. The method of valuing opening and closing inventories has been changed to the cost method. Other changes have been made as shown per Exhibit A to reflect the actual amounts paid.

FORM 1909 (REV. DEC. 1958) TRANSLUCENT

U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE

## COMPUTATION OF INCOME TAX - INDIVIDUALS

| SCHEDULE | NAME OF TAXPAYER(S) | YEAR ENDED (~~Period~~) |
|---|---|---|
| 8 | Chas. A. Brant | 12/31/64 |

| | |
|---|---|
| 1. Corrected adjusted gross ~~income~~ income (*From schedule* 7 ) | $ 4,247.58 |
| 2. If tax table is applicable: Tax on corrected adjusted gross income with 1 exemptions | 581.00 |
| 3. If tax table is NOT applicable: A. Tax on corrected taxable income if line 1 is not over $2,000—20% thereof | |
| B. Tax on corrected taxable income if line 1 is over $2,000—computed for: ☐ SINGLE PERSON ☐ SURVIVING SPOUSE ☐ HEAD OF A HOUSEHOLD ☐ MARRIED PERSON FILING SEPARATELY ☐ MARRIED PERSONS FILING JOINTLY | |
| 4. Alternative tax, if computed (*From schedule* ) | |
| 5. Corrected applicable tax: Line 2, 3, or 4 | 581.00 |
| 6. Less: A. Dividends received credit — $ | |
| B. Retirement income credit | |
| C. Other allowable credits if deductions itemized: | 0 |
| 7. Balance: Line 5 less total of amounts in line 6 | 581.00 |
| 8. Plus: Self-Employment tax ~~shown on return~~ as corrected (*Schedule* 9 ) | 229.37 |
| 9. Total corrected income tax liability | 810.37 |
| 10. Total tax shown on return ~~(as previously adjusted)~~ | 0 |
| 11. Statutory deficiency ~~or (overassessment)~~ - difference between Lines 9 and 10 | $ 810.37 |

### COMPUTATION OF ADDITIONAL TAX DUE OR OF NET OVERASSESSMENT

| | SHOWN ON YOUR RETURN | | AS CORRECTED | |
|---|---|---|---|---|
| 12. Total income tax liability | | $ 0 | | $ 810.37 |
| 13. Less net adjustments: A. Income tax withheld | $ | | $ | |
| B. F.I.C.A. tax credit | | | | |
| C. Payments on estimated tax | | | | |
| D. Regulated investment company undistributed capital gain credit | | | | |
| E. Previous assessments | | | | |
| F. Sum of amounts A through E | 0 | | 0 | |
| G. Deduct previous refunds and/or credits | | 0 | | 0 |
| 14. Additional tax or (~~Net overassessment~~) | | | | 810.37 |
| 15. Penalties or additions to the tax, if any | Sections 6653(a) & 6651 5% 25% | | | $ 243.11 |

# Auditors Report

FORM 885-F (REV. NOV. 1963)

U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE

## SELF-EMPLOYMENT TAX ADJUSTMENT

| 1. SELF-EMPLOYED TAXPAYER (Print) | DOC. LOCATOR NO. | DATE OF REPORT | YEAR | SCHED. NO. |
|---|---|---|---|---|
| Charles A. Brant | OE 603407 | 12-6- | 1964 | 9 |

2. HOME ADDRESS: 2130 Ida-Maybee Road, Monroe, Michigan 48161

BUSINESS ACTIVITY: Service Station

SOCIAL SECURITY NO.: 376 32 [illegible]

| 3. FOR S. S. A. USE ONLY | NET EARNINGS | WAGES | SELF-EMPLOYMENT INCOME | FOR S. S. A. USE ONLY |
|---|---|---|---|---|
| INFORMATION PREVIOUSLY REPORTED | 4. 363.94 | 5. $ | 6. 363.94 | 14. |
| ADJUSTMENTS | 7. 3,883.64 | 8. $ | (If item 9 less than $400, enter "NONE"): 11. | |
| CORRECT INFORMATION | 9. 4,247.58 | 10. $ | 4,247.58 | |

12. Was audit determination made within 3 years of due date of return?
(a) ☒ Yes (b) ☐ No (Initials)

13. APPLICABLE MAXIMUM:

| | |
|---|---|
| 1951-1954 | $3600 |
| 1955-1958 | 4200 |
| 1959 & ON | 4800 |

Appl. max for year: -4,800.00 — Less Item 10: $ = Equals (Item 11 not to exceed this amount): 4,800.00

SELF-EMPLOYMENT TAX ( % OF ITEM 11) ..... $

ADJUSTMENTS TO BUSINESS, FARM, AND SELF-EMPLOYMENT INCOME AND EXPENSES

| ITEM | REPORTED | CORRECTED | ADJUSTMENT |
|---|---|---|---|
| Revised Profit (OR Loss) | $ 363.94 | $ 4,247.58 | $ 3,883.64 |
| | | | |
| | | | |
| | | | |
| NET ADJUSTMENT TO SELF-EMPLOYMENT INCOME | | | $ 3,883.64 |

EXPLANATIONS AND REMARKS:

Profit (or Loss) Statement to replace Computed Income and Expenses from Service Station

## SCHEDULE OF TAX RATES

| YEAR | RATE OF TAX | MAXIMUM AMOUNT OF SELF-EMPLOYMENT INCOME | MAXIMUM SELF-EMPLOYMENT TAX |
|---|---|---|---|
| Beginning after 12-31-58 but before 1-1-60 | 3.75% | $4800 | $180 |
| Beginning after 12-31-59 but before 1-1-62 | 4.5% | $4800 | $216 |
| Beginning after 12-31-61 but before 1-1-63 | 4.7% | $4800 | $225.60 |
| Beginning after 12-31-62 but before 1-1-66 | 5.4% | $4800 | $259.20 |
| Beginning after 12-31-65 but before 1-1-68 | 6.2% | $4800 | $297.60 |
| Beginning after 12-31-67 | 6.9% | $4800 | $331.20 |

GPO [illegible]

FORM 885-F (REV. 11-63)

Charles Grant — Exhibit A
Year ended 12-31-62
Profit (or Loss)

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 1 | Total sales - 20% mark-up - Gas, oil & parts | | | | | | 151336 5 | |
| 2 | Labor | | | | | | 25714 5 | |
| 3 | Total receipts | | | | | | 177251 0 | |
| 4 | Less discounts | | | | | | 413 0 | 176838 0 |
| 5 | Inv. 1-1-62 | | | | 73865 | | | |
| 6 | Purchases | | | | 121558 27 | | 128769 2 | |
| 7 | Inventory - 12/31/62 | | | | | | 79000 | |
| 8 | Cost of goods sold | | | | | | | 121062 2 |
| 9 | Gross profit | | | | | | | 55768 8 |
| 10 | | | | | | | | |
| 11 | Vapor | | | | | | 5449 0 | |
| 12 | Rent - based on 1½ cents per gallon | | | | | | 4253 8 | |
| 13 | Repairs | | | | | | 1374 4 | |
| 14 | Insurance | | | | | | 3160 0 | |
| 15 | Legal & auditing | | | | | | 500 | |
| 16 | Laundry | | | | | | 1293 | |
| 17 | Advertising | | | | | | 1346 0 | |
| 18 | Utilities | | | | | | 3123 5 | |
| 19 | Telephone | | | | | | 918 0 | |
| 20 | Supplies | | | | | | 543 0 | |
| 21 | Bank charges | | | | | | 120 0 | |
| 22 | Small tools | | | | | | 592 2 | |
| 23 | Auto use (50%) | | | | | | 2941 9 | |
| 24 | Depreciation (See below) | | | | | | 3482 7 | 28652 8 |
| 25 | Net profit | | | | | | | 27115 0 |
| 26 | | | | | | | | |
| 27 | | | | | | | | |
| 28 | Depreciation | | | | | | | |
| 29 | Assets | Cost | Date Acquired | Prior Depreciation | Method | Life | Depreciation | 7% Credit |
| 30 | | | | | | | | |
| 31 | Auto | 1000 - | 1961 | | | | | |
| 32 | | - 630 30 | Exchange | | | | | |
| 33 | | 369 70 | (50%) | | S.L. | 11 mo. | 184 85 | |
| 34 | Auto | 3030 30 | 12/62 | | | | | |
| 35 | | - 300 00 | Salvage | | | | P/L 1/2 | |
| 36 | | 2730 30 | (85%) | | S.L. | 5 Yr. | 386 8 | 47 60 |
| 37 | Cash register | 307 40 | 1961 | 307 4 | S.L. | 10 Yr. | 307 4 | |
| 38 | Power Tools | 800 00 | 1961 | 800 0 | S.L. | 10 Yr. | 800 0 | |
| 39 | Office equip | 140 00 | 1961 | 140 0 | S.L. | 10 Yr. | 140 0 | |
| 40 | Totals | | | | | | 3482 7 | 47 60 |
| 41 | | | | | | | | |

Charles A. Brant — Exhibit C
Year ended 12/31/63
Profit (or Loss)

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | Total sales - 2% more - up - Hardware parts | | | | | | | | $ 183106.00 | | |
| 2 | Labor | | | | | | | | 2991.25 | $ 21302.35 | |
| 3 | Inventory - 1/1/63 | | | | | | | $ 7900.00 | | | |
| 4 | Purchases | | | | | | | 14794.08 | $ 15584.08 | | |
| 5 | Inventory - 12/31/63 | | | | | | | | 9356.00 | | |
| 6 | Cost of goods sold | | | | | | | | | 14648.46 | |
| 7 | Gross profit | | | | | | | | | $ 6653.87 | |
| 8 | | | | | | | | | | | |
| 9 | Wages | | | | | | | | $ 6333.36 | | |
| 10 | Rent - $50 per month | | | | | | | | 600.00 | | |
| 11 | Insurance | | | | | | | | 298.10 | | |
| 12 | Legal & Accounting | | | | | | | | 25.00 | | |
| 13 | Laundry | | | | | | | | 279.09 | | |
| 14 | Taxes & Lic | | | | | | | | 91.60 | | |
| 15 | Utilities | | | | | | | | 310.67 | | |
| 16 | Advertising | | | | | | | | 304.73 | | |
| 17 | Dues | | | | | | | | 15.00 | | |
| 18 | Auto use (85%) | | | | | | | | 269.26 | | |
| 19 | Interest | | | | | | | | 123.25 | | |
| 20 | Depreciation (see below) | | | | | | | | 621.65 | 35.00 | |
| 21 | Net Profit | | | | | | | | | $ 3090.16 | |
| 22 | | | | | | | | | | | |
| 23 | | | | | | | | | | | |
| 24 | Depreciation | | | | | | | | | | |
| 25 | Asset | Cost | | Date Acquired | Pct Depreciated | Method | Life | | Depreciable | 7½% | |
| 26 | G. T. | $ | 3030.30 | 12/62 | | | | | | | |
| 27 | | - | 300.00 | Salvage | | | | | | | |
| 28 | | | 2730.30 | 85% | | 3258 | S.L. | 5 yr. | 464.15 | — | |
| 29 | Chain Saws | | 327.60 | 1963 | | — | S.L. | 10 yr. | 32.76 | 22.93 | |
| 30 | Cash registers | | 307.40 | 1961 | | 6148 | S.L. | 10 yr. | 30.74 | | |
| 31 | Power Tools | | 600.00 | 1961 | | 160.00 | S.L. | 10 yr. | 80.00 | | |
| 32 | Office equip | | 140.00 | 1961 | | 26.00 | S.L. | 10 yr. | 14.00 | | |
| 33 | | | | | | | | | | | |
| 34 | Totals | | | | | | | | $ 621.65 | $ 22.93 | |

Charles A. Brant
Year ended 12/31/64
Profit (or Loss)

Exhibit C

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| 1 | Total Sales - 20% mark-up-Disposit & parts | | | | | | 2298385 | | |
| 2 | Labor | | | | | | 375125 | 2673510 | |
| 3 | Inventory - 1/1/64 | | | | | 93560 | | | |
| 4 | Purchases | | | | | 1847649 | 1941209 | | |
| 5 | Inventory - 12/31/64 | | | | | | 1023 - | | |
| 6 | Cost of Parts sold | | | | | | | 1838186 | |
| 7 | Gross profit | | | | | | | 834801 | |
| 8 | | | | | | | | | |
| 9 | Taxes | | | | | | 66245 | | |
| 10 | Rent - $100 per month | | | | | | 120000 | | |
| 11 | Insurance | | | | | | 31600 | | |
| 12 | Legal & auditing | | | | | | 2500 | | |
| 13 | Telephone | | | | | | 30758 | | |
| 14 | Electricity | | | | | | 9239 | | |
| 15 | Utilities | | | | | | 3092 | | |
| 16 | Advertising | | | | | | 3329 | | |
| 17 | Sales tools | | | | | | 9422 | | |
| 18 | Dues | | | | | | 1500 | | |
| 19 | Auto use - (85%) | | | | | | 26657 | | |
| 20 | Interest | | | | | | 12325 | | |
| 21 | Depreciation (see below) | | | | | | 65274 | 410043 | |
| 22 | Net profit | | | | | | | 424758 | |
| 23 | | | | | | | | | |
| 24 | | | | | | | | | |
| 25 | Depreciation | | | | | | | | |
| 26 | asset | Cost | Date Acquired | Prior Depreciation | Method | Life | Depreciation | | |
| 27 | | | | | | | | | |
| 28 | Auto | 3030 30 | 12/62 | | | | | | |
| 29 | | - 300 00 | salvage | | | | | | |
| 30 | | 2730 30 | (85%) | 50263 | S.L. | 5 yrs. | 46415 | | |
| 31 | Clayton Crane | 32760 | 1963 | 3276 | S.L. | 10 yrs. | 3276 | | |
| 32 | Equip. | 31093 | 1964 | | S.L. | 10 yrs. | 3109 | | |
| 33 | Cond regrate | 30740 | 1961 | 9222 | S.L. | 10 yrs. | 3074 | | |
| 34 | Power Tool | 800 00 | 1961 | 24000 | S.L. | 10 yrs. | 8000 | | |
| 35 | Office equip | 1400 00 | 1961 | 4200 | S.L. | 10 yrs. | 1400 | | |
| 36 | Total | | | | | | 65274 | | |
| 37 | | | | | | | | | |
| 38 | | | | | | | | | |
| 39 | | | | | | | | | |
| 40 | | | | | | | | | |
| 41 | | | | | | | | | |

(Tr-21)

• • •

CHARLES BRANT

was thereupon called as a witness herein, and after having been first duly sworn, testified as follows:

THE COURT: I think, Mr. Keenan, it would be helpful —there are 28 counts in this indictment, if you identify the count that you are offering the testimony on.

MR. KEENAN: I will sir. Thank you very much, Members of the Jury, Mr. Brant will testify, concerning Counts 1 and 2.

DIRECT EXAMINATION

BY MR. KEENAN:

Q. Mr. Brant, would you identify yourself to the Jury, please?

A. Charles Brant.

(Tr-22)

Q. Are you employed, sir?

A. Yes.

Q. What is your line of work?

A. Mechanic.

Q. How long have you been a mechanic?

A. Approximately twelve years.

Q. Do you know the Defendant in this case, Mrs. Mary McKee?

A. Yes.

Q. How long have you known her?

A. I first went to her in—it would be in 1963.

Q. Why?

A. I went to her to have income tax filed.

Q. Mr. Brant, I show you Government's Exhibit 3 in evidence and ask you to identify it, please, if you would, sir.

A. This is my 1963 report.

Q. Is there a signature on that return, sir?

A. Yes, there is.

Q. Is it yours?

A. No, it is not.

Q. What name does that signature purport to be?

A. Charles A. Brant.

Q. Mr. Brant, referring to the exhibit you have in your hand now, and referring specifically to Schedule C, line 4, would you read the number that appears there, please?

A. "Cost of labor."

(Tr-23)

Q. Excuse me, sir. What else does it say in parenthesis?

A. "Do not include salary paid to yourself."

Q. What dollar figure is shown there, sir?

A. $2,209.65.

Q. What, if anything, did you tell Mrs. McKee about that entry?

A. I did not tell her anything.

Q. Did you at anytime tell her you had a man working for you?

A. No.

Q. Did you at anytime—strike that.

Did at anytime she ask you if you had anybody working for you?

A. I do not remember.

Q. How did you give Mrs. McKee the information to prepare your tax return for that year, the year 1963?

A. Well, she made out my annual sales tax reports, so I gave her copies of the monthly Michigan Sales Reports and all of my expenses.

Q. Did you keep any sort of books?

A. I have a daily record.

Q. What does the daily record show?

A. It shows daily sales.

Q. Did you keep any kind of a record indicating the cost of labor you may have hired?

A. No, I didn't have any.

THE COURT: What was the answer? No—

(Tr-24)

MR. KEENAN: No, he didn't have any, your Honor.

THE COURT: Didn't have any what?

Q. (By Mr. Keenan, continuing): Didn't have any what, sir?

A. I didn't have—

Q. Is it your testimony, Mr. Brant, you did not hire anybody in 1963?

A. Yes, I did not hire anybody.

Q. Thank you.

Did you tell Mrs. McKee you had?

A. No.

Q. Mr. Brant, I show you Government's Exhibit 4 and ask you to look at it and tell the Jury if you recognize it.

A. Yes, this is my 1964 return.

Q. Is there a signature on it?

A. Yes.

Q. Whose?

A. That is my signature, Charles A. Brant.

Q. Do you recall when you signed this return?

A. Not the exact time, no.

Q. Can you recall when you signed it whether it was filled in?

A. I did sign in blank.

Q. You did, sir, sign in blank.

Referring, Mr. Brant, to Schedule C, line 4, "cost of

labor," what dollar amount has been entered there?
(Tr-25)

A. $2,811.50.

Q. How did Mrs. McKee get that information?

A. I do not know.

Q. Did you tell her you hired labor for that amount?

A. No.

Q. Did she ask you whether you had?

A. I don't remember if she asked.

MR. KEENAN: I have no further questions. You may cross examine.

MR. MERRILL: May I see the exhibits?

MR. KEENAN: Yes, certainly.

Mr. Brant, can I see the exhibits, please, sir?

(Whereupon the witness handed Exhibits 3 and 4 to Mr. Keenan.)

MR. KEENAN: Thank you.

(Whereupon Exhibits 3 and 4 were handed to Mr. Merrill.)

CROSS EXAMINATION BY MR. MERRILL:

* * *

Q. Mr. McKee—Mr. Brant, you indicated that you did not sign Exhibit 3, although there is a signature, "Charles A. Brant", you indicated that was not in your handwriting. That is for 1963, is that correct?
(Tr-26)

A. That is correct.

Q. And for 1964, you identified the signature on the bottom of the return, which is Exhibit 4, as being in your handwriting.

A. It is.

Q. Do you remember the circumstances of how these returns were mailed to the Internal Revenue Service after

they were completed?

MR. KEENAN: Objection, your Honor. That assumes a fact not in evidence. It may not have been mailed. It may have been delivered personally.

Q. (By Mr. Merrill, continuing): Do you know whether they were mailed or not?

A. I do not know.

Q. Did you mail them?

A. No.

Q. Did you deliver them personally?

A. As far as I know, Mrs. McKee mailed them. They were left to her.

Q. Do you know a lawyer named Yale Kerby in Morenci, Michigan?

A. I do not.

Q. How far is your home from Morenci, approximately?

A. I don't even know that.

Q. Pardon me? I didn't hear your answer.

A. I don't know where Morenci is.

(Tr-27)

Q. All right. Have you ever been in Morenci?

A. No.

MR. MERRILL: Would you mark this as proposed Exhibit—

Your honor, I would like to have a proposed exhibit marked and I am not sure whether you would like to follow along with—

THE COURT: Yes, I would.

MR. MERRILL: All right. Then it would be Proposed Exhibit 27.

(Whereupon a document was marked Defendant's Proposed Exhibit 27 for identification.)

Q. (By Mr. Merrill, continuing): Mr. Brant, let me

show you what has been marked as Proposed Exhibit 27, and I call your attention to the fact that it is a carbon copy of the tax return for the year 1964, appearing to be in your name, for you, for that year.

(Whereupon Exhibit 27 was handed to the witness.)

Q. (By Mr. Merrill, continuing): You have had a chance to look at this proposed exhibit, which consists of two printed pages of the tax return and then two pages of handwritten words and figures, does it not?

A. Yes.

(Tr-28)

Q. Looking at the two pages of handwritten words and figures, let me ask you if you can identify that handwriting on either of those two pages.

A. I believe it is mine.

THE COURT: What is this?

Q. (By Mr. Merrill, continuing): You said you believe it is yours?

A. It is.

MR. MERRILL: I offer proposed Exhibit 27 in evidence.

(Whereupon Defendant's Proposed Exhibit 27 was offered in evidence.)

MR. KEENAN: May I have a moment, your Honor?

THE COURT: Yes.

MR. KEENAN: Your Honor, before I do not object to this introduction, may I ask a few voir dire questions of it?

THE COURT: Yes.

MR. KEENAN: Thank you.

Mr. Brant, I notice on this handwritten document, which I believe you have testified is in your handwriting—is that correct, sir?

A. It is my handwriting.

MR. KEENAN: It is in your handwriting, did you say? (Tr-29)

A. Yes.

MR. KEENAN: Both the numbers and the handwritten words?

A. Yes.

MR. KEENAN: I believe the second entry from the top at the third page is an item for labor, is it not, sir?

A. Yes.

MR. KEENAN: What amount is shown there?

A. $3,751.25.

MR. KEENAN: What is the significance of that?

A. That should—that is sales and labor.

MR. KEENAN: Labor of who?

A. Well, that was figured like my sales. Now, that's just parts and all, and labor I always figured in with it as a total, total sales.

MR. KEENAN: Do you mean that—

THE COURT: Well, we are talking about the admissibility of this exhibit.

MR. KEENAN: All right, your Honor.

Your Honor, I have no objection to its admissibility.

THE COURT: All right, it is admitted.

(Tr-30)

(Whereupon Defendant's Proposed Exhibit 27 was admitted into evidence.)

THE COURT: Go ahead, Mr. Merrill.

MR. KEENAN: I'm sorry, your Honor.

MR. MERRILL: I have no further questions of Mr. Brant.

REDIRECT EXAMINATION

BY MR. KEENAN:

Q. Mr. Brant, getting back to my original question, sir, would you explain a little more carefully, please, what you mean by your cost of labor and how—

A. That is not meant as cost of labor. That is a sales or should have been included in the sales.

Q. It should have been included in sales?

A. Yes.

Q. How?

A. Well, that's the way I have always done it. Sales would actually be the $20,742.17 plus—

Q. Excuse me, sir, Did Mrs. McKee ever ask you any questions about that item?

A. I do not remember.

Q. Do you remember what you told her, if anything, about that item?

A. I don't remember. It should have been explained.

Q. When you signed your 1964 tax return, do you recall whether that handwritten supporting schedule was attached?

A. No, I don't remember.

Q. You don't remember.

I have no further questions.

THE COURT: That is all, Mr. Brant.

MR. MERRILL: We have no questions.

(Whereupon the witness was excused.)

* * *

(Tr-802)

MARY McKEE,

was thereupon called as a witness herein, and after having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HARDIG:

Q. Would you state your full name to the Jury, please?

A. Mary McKee.

Q. Where do you live, Mrs. McKee?

A. 4950 Textile Road, Ypsilanti.

Q. Mrs. McKee, the Government has charged you with 28 counts, two of which have been dismissed by the Government.

I think for ease of presentation, I will ask you certain questions on each of the counts, beginning with Count 1. For certain of the counts linked together involving the identical taxpayers, and perhaps you can answer two or three counts at the same time.

To refresh your memory, Count 1 and Count 2 deal with taxpayer Charles A. Brant, wherein the question is an expense for cost of labor.

Your heard Mr. Brant testify. I show you Exhibit 27 and ask you if the attachment to Exhibit 27, which Mr. Brant testified was in his handwriting, was given to you or to somebody in your office?

A. This was given to me.

THE COURT: I think she will have to keep her voice up.

(Tr-803)

MR. HARDIG: Yes.

Q. (By Mr. Hardig, continuing): Try and speak as loudly as you can.

A. All right.

This paper, showing Mr. Brant's handwriting, was given to me.

Q. And to the best of your knowledge, did Mr. Brandt

have labor in his business?

A. Yes. And when I computed a rough copy of his return, I called him in and we discussed his return and I told him he showed an excessive loss, which I didn't feel it was right, and he says, well, it was his father that was working for him, but his father is on Social Security, and if he would be caught, he says, his father could not receive the Social Security benefits due to the fact that he was earning above the amount allotted to him.

I have cancelled checks and receipts in my files here that will show that these were—that his father was an employee and working for Charles Brant. Frank Brant was the father.

At the time then when he came back, he says, "Mark down the labor."

And I said, "Well, did you pay him or didn't you?"

(Tr-804)

He said, "Yes," he did.

He also told me that the gasoline that was used for business, he has here $513.64. He told me to reduce that amount to a lesser amount, and that at that time I became aware of what the conditions were there. Prior to that I had no knowledge of this.

* * *

(Tr-825)

* * *

CROSS EXAMINATION

BY MR. KEENAN:

Q. Mrs. McKee, let's talk about these indictments in the order as you have on direct examination.

I believe you indicated regarding Mr. Brant's return that you saw a number of cancelled checks and receipts in

his return for money paid to his father.

A. Excuse me, not in his return.

Q. That was in his effects?

A. We were at the Appellate level and Norman Nelson—

Q. I am not talking about that. I am talking about the preparation of the returns.

(Tr-826)

A. It wasn't during the preparation of the returns when I was aware — I saw these cancelled checks. They belonged to a client of mine and we have them here.

Q. Well, did you not see a piece of paper attached to Mr. Brandt's effects showing the cost of labor so many dollars?

A. Yes.

Q. Did you make any inquiry about it?

A. Yes.

Q. What?

A. Well, I was computing the returns. I told him that — I said, "Did you really pay out this much?" Because he had such a big loss and he said, "Yes."

Q. What do you mean pay out this much because he had a big loss, what do you mean by that?

A. Well, where it shows net profit or loss, the loss was rather a large amount.

Q. How much was the loss?

A. I don't remember right now. And he was the one that changed the figure to the wages.

Q. Well, you heard Mr. Brant take the stand, did you not?

A. Yes, I did.

Q. You heard him says he told you nothing about that, isn't that correct?

A. Yes, I did.

Q. You heard him say that you never asked him any questions about that?

(Tr-827)

A. Yes, I did.

Q. Is he lying?

A. That is up to you to make that decision.

Q. You tell the Jury.

A. My opinion of it?

Q. Yes.

A. Well, I think that the cancelled checks and receipts made to the father —

MR. KEENAN: Would you ask the witness to keep her answers responsive?

MR. HARDIG: She is trying to answer the question.

The COURT: Can we have the question again.

Q. (By Mr. Keenan, continuing): Are you telling this Jury that Mr. Brant is lying?

A. I'll say he didn't tell the truth.

• • •

(Tr-58)

• • •

ALFRED J. MAREK,

having been previously sworn, was recalled to the stand and was further examined and testified as follows:

• • •

(Tr-60)

• • •

Q. Is your statement that in your branch they never used electronic surveillance, is that right?

A. I have never seen or been involved in any electronic

surveillance.

Q. Then it is also — would you know whether the inspectional services used it?

A. No, sir.

Q. So you don't know?

A. That's correct.

Q. So then in your entire history in the Internal Revenue Service here in Detroit, you don't know of any electronic surveillance that was used in any case, is that correct?

A. That's correct.

• • •

SUPREME COURT, U. S.

FILED

JAN 19 1972

MICHAEL RODAK, JR., CLERK

No. 71-1270

# In the Supreme Court of the United States

OCTOBER TERM, 1971

---

MARY MCKEE, PETITIONER

*v.*

UNITED STATES OF AMERICA

---

*ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT*

---

## MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

---

ERWIN N. GRISWOLD,
*Solicitor General,*

SCOTT P. CRAMPTON,
*Assistant Attorney General,*

MEYER ROTHWACKS,
JOHN P. BURKE,
RICHARD B. BUHRMAN,
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*Department of Justice,*
*Washington, D.C. 20530.*

# In the Supreme Court of the United States

OCTOBER TERM, 1971

---

No. 71-1270

MARY MCKEE, PETITIONER

*v.*

UNITED STATES OF AMERICA

---

*ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT*

---

## MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

---

After a jury trial in the United States District Court for the Eastern District of Michigan, petitioner was convicted on fifteen counts of willfully aiding and assisting in the preparation of income tax returns which were false and fraudulent as to certain material matters, in violation of 26 U.S.C. 7206(2). Petitioner was sentenced to three years' imprisonment under 18 U.S.C. 4208(b) on the first count

only.[1] The court of appeals affirmed *per curiam* (Pet. App. 1a-3a).

Count I of the indictment charged petitioner with willfully aiding and assisting in the preparation of the false and fraudulent 1963 income tax return of Charles A. Brant; the return was alleged to be false and fraudulent in that it claimed a deduction for a business expense (cost of labor) to which petitioner knew Brant was not entitled (J. App. 3a).[2]

Petitioner contends (Pet. 8-11) that the evidence was insufficient to support her conviction on this count. However, the record contains ample evidence to support petitioner's conviction. Brant's 1963 income tax return claimed a deduction for the cost of labor in the amount of $2209.65 (J. App. 16a, 97a-101a). This deduction was admittedly falsely claimed (J. App. 16a-17a). The issue before the jury was whether petitioner prepared the return knowing it to be false. Brant testified that he went to petitioner to have his 1963 income tax return prepared (J. App. 16a), that he furnished her with no information concerning any cost of labor in operating his service station because he had not employed anyone during 1963 (J. App. 16a-17a; Pet. App. 11a), that he did not sign his name to his 1963 return (J. App. 16a,

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[1] Since no sentence was imposed on the remaining fourteen counts on which petitioner was convicted, petitioner's appeal to the court below related only to the propriety of the conviction on Count I.

[2] The designation "J. App." refers to the Joint Appendix filed in the court of appeals below.

18a), and that the return had been left with petitioner for her to complete and file (J. App. 18a). The return was signed with petitioner's name as preparer (Pet. App. 2a). Although petitioner now suggests (Pet. 8-9) that there was no proof that Brant's 1963 return was her "product," petitioner herself in effect testified that she had prepared the return (J. App. 49a-52a).[3] This evidence was sufficient to support the jury's finding that petitioner had prepared Brant's return knowing it to be false.[4]

Petitioner's second contention (Pet. 11-12) is that she may have been the subject of electronic surveillance by the government. After a full investigation the trial court properly concluded that petitioner's allegations were unsupported (J. App. 197a). This conclusion was based, *inter alia*, on testimony by the United States Attorney that he was "absolutely certain that the Government itself and no agents of the Government engaged in any electronic surveillance" (J. App. 193a; Pet. App. 3a), testimony by several Internal Revenue Service officials that they knew of no surveillance (J. App. 176a-191a), and testimony

---

[3] There is, moreover, a statutory presumption that the fact that an individual's name is signed to a tax return "shall be prima facie evidence for all purposes that the return * * * was actually signed by him" (26 U.S.C. 6064).

[4] Petitioner urges (Pet. 9) that there was no proof that she "present[ed]" the return to the Internal Revenue Service. Assuming arguendo this to be the case, the statute proscribes the willful aiding or assisting of either "the preparation *or* presentation" of false returns. 26 U.S.C. 7206(2) (emphasis added).

by the special agent in charge of the investigation of petitioner that he knew of none (J. App. 191a).

For the reasons stated, it is respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
*Solicitor General.*

SCOTT P. CRAMPTON,
*Assistant Attorney General.*

MEYER ROTHWACKS,
JOHN P. BURKE,
RICHARD B. BUHRMAN,
*Attorneys.*

MAY 1972.

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IN THE

# SUPREME COURT OF THE UNITED STATES

Supreme Court, U. S.
FILED
JUL 6 1972
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OCTOBER TERM, 1971

NO. 71-1270

MARY McKEE,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

## PETITION FOR REHEARING ON ORDER DENYING WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT.

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THE INLAND PRESS, DETROIT, MICHIGAN

IN THE

# SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1971

NO. 71-1270

MARY McKEE,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

## PETITION FOR REHEARING ON ORDER DENYING WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT.

*To the Supreme Court of the United States and the Honorable Justices thereof:*

I

It appears that certiorari was denied on the Solicitor General's contention in his Memorandum in Opposition that the Government was able to sustain a conviction based on a statutory presumption that an individual's name signed to a tax return shall be prima facie evidence for all purposes that the return was actually signed by him. (26 U.S.C. 6064).

The statutory presumption created by Section 6064, Title 26 violates the Fifth Amendment to the Constitution of the United States which guarantees the right of the accused to remain silent, by compelling the accused to take the stand in rebuttal to overcome such prima facie evidence. *Casella* v. *U.S.* 304 F. Supp. 756 (1969).

The Court has in various instances found constitutionally permissible the use of a presumption based upon proof of given facts at a trial. However, this Court has held that such a statutory presumption is not permissible where not supported by substantiated legislative history. Thus, in *U.S. v. Turner,* 90 S. Ct. 642, 396 U.S. 398, 24 L. Ed. 2d 610 (1970), the Court held that the statutory presumption which applied to heroin could not be equally applicable to cocaine because of the differences in the historical background of the two substances.

Further, this Court searched exhaustively the legislative history of organized crime as related to extortion in examining the constitutionality of Title 18, U.S.C.A., Section 891. There, this Court found the necessary supportive legislative history. See *Perez* v. *U.S.,* 91 S.Ct. 1357, 402 U.S. 146, 28 L. Ed. 2d 686 (1971).

However, in the instant case there is no such history possible. It is a general situation that a husband might sign a wife's name in a situation of criminal potential. A taxpaper might sign the name of a preparer of such taxes with a view to insulating himself from his self-conceived criminality and thereby place the putative preparer in the position of being convicted unless he takes the stand.

The lack of substantiability of any legislative history to support Section 6064 is a patent violation of the Fifth Amendment.

## II

It is clear that the Government assumed the burden of disproving Mary McKee's claim of Electronic Surveillance and it is equally clear that the Government never acquitted itself of this burden. *In Re: Evans* (465 F2d. 1239 (1972) )

> "The Government, not appellants, has the information which can substantiate or dissolve their contentions, and for that reason Congress expected that the burden of going forward would shift to the Government."

During oral argument had on this matter before the three Judge panel of the 6th Circuit Court of Appeals, that panel referred to Agent Marek's testimony as incredible where he stated under oath:

> "Q Is your statement that in your branch they never used electronic surveillance, is that right?
>
> A I have never seen or been involved in any electronic surveillance." (J. App. 159a).[1]
>
> "Q So then in your entire history in the IRS here in Detroit, you don't know of any electronic surveillance that was used in any case, is that correct?
>
> A That's correct." (J. App. 160a)

Subsequent testimony of Agent Marek produced the following questions and answers:

> "Q On December 30, 1966, you were a special agent of the Internal Revenue?
>
> A That's correct.
>
> Q And by December 30, 1966, you had completed or were in the process of completing the investigation of Mary McKee?
>
> A I don't recall which stage the investigation was at that particular time.
>
> Q But at least you were aware of an investigation on December 30, 1966?

[1] The designation "J. App." refers to the joint appendix filed in the Court of Appeals below.

A Yes, sir.

Q Did you submit any memoranda with respect to your or other agent's electronic surveillance of the Defendant Mary McKee or the investigatee, Mary McKee?

A I submitted reports in regard to this type of request, but I don't believe there was any specifically regarding Mary McKee.

Q You submitted a report with regard to this type of request and by "this type of request" you mean a request such as indicated on Defendant's Exhibit I for identification?

A Yes, sir." (J. App. 174a, 175a, (See Exhibit A, this appendix p.1a) ).

The panel ordered that the Assistant United States Attorney obtain a current statement over the signature of Attorney General John Mitchell, either denying or affirming the presence of electronic surveillance. Government counsel subsequently forwarded a letter to one Judge of the panel reiterating the same original, unreliable assurances that were given during the evidentiary hearing on this matter and again reassuring the Court that he had no personal knowledge of any electronic surveillance, coupled with reference to a Department of Justice memo he found in his files dated October 6, 1967, from a tax division staff attorney to then Assistant Attorney General Rogovin indicating no electronic surveillance of McKee; completely ignoring the mandate of the three Judge panel of the 6th Circuit Court of Appeals and the memorandum from the Attorney General (See Exhibit B this appendix, p. 2a).

In view of the foregoing, we respectfully pray that this Court order the Solicitor General to file a memorandum disclosing the information required by the Court's Order

in *Black* v. *United States,* 384 U.S. 983, *Alderman* v. *United States,* 394 U.S. 165, and others, including the memorandum to all United States Attorneys from the Attorney General —Memo No. 493, dated November 3, 1966, and that this Court pending receipt of such memorandum, hold in abeyance its determination of this petition.

## III

## CONCLUSION

For the reasons above submtted, petitioner respectfully suggests that this Court reconsider its Order Denying Certiorari, withdraw said Order, and grant Certiorari herein to the Court of Appeals.

Respectfully submitted,

S. ALLEN EARLY,
RUSSELL L. SWARTHOUT,
Attorneys for Petitioner.

## CERTIFICATE

Counsel hereby certifies that the foregoing Petition for Rehearing is presented in good faith and not for delay and that it is restricted to grounds specified in Rule 58 (2) of the Rules of this Court.

S. ALLEN EARLY, and
RUSSELL L. SWARTHOUT,
Attorneys for Petitioner.

Dated: July 6, 1972.

COPY OF A TELETYPE FROM THE COMMISSIONER OF INTERNAL REVENUE TO ALL DISTRICT DIRECTORS, INTERNAL REVENUE SERVICE, DATED AND RECEIVED DECEMBER 30, 1966:

"MY MEMORANDUM DATED DECEMBER 6, 1966 EXPLAINED WHY IT IS ESSENTIAL FOR THE SERVICE TO OBTAIN COMPLETE INFORMATION ON INSTANCES OF ELECTRONIC SURVEILLANCE, INCLUDING: THE OVERHEARING OR RECORDING OF ANY TELEPHONE OR NON-TELEPHONE CONVERSATION UNLESS WITH THE CONSENT OF EVERY PARTY TO THE CONVERSATION; THE USE OF A PEN REGISTER; THE USE OF A TAILING DEVICE ON A VEHICLE WITHOUT THE CONSENT OF THE OWNER, RELATED TO INVESTIGATIONS CONDUCTED BY THE SERVICE. INFORMATION REQUESTED BY THE MEMORANDUM PERTAINED TO SPECIFIC CASES LISTED IN THE ATTACHMENTS OR TO BE SUBSEQUENTLY TRANSMITTED. SINCE COMPLETE INFORMATION IS REQUIRED TO ASSURE THAT NO INJUSTICES UNDER THE LAW MAY RESULT OR HAVE RESULTED FROM THE USE OR POTENTIAL USE OF INFORMATION OBTAINED BY ELECTRONIC SURVEILLANCE, IT IS ABSOLUTELY NECESSARY THAT ALL KNOWN OR REASONABLY SUSPECTED INSTANCES OF ELECTRONIC SURVEILLANCE BE IMMEDIATELY REPORTED, REGARDLESS OF WHETHER THE CASE INVOLVED IS OR IS NOT NAMED ON A LIST PREVIOUSLY TRANSMITTED TO YOU. THE FULL IMPACT OF INVESTIGATIVE ACTS CANNOT BE EVALUATED WITHOUT KNOWING ALL SPECIFIC INSTANCES OF ELECTRONIC SURVEILLANCE. I CONSIDER THE NEEDS OF JUSTICE TO BE SO COMPELLING THAT I AUTHORIZE YOU TO ASSURE ALL EMPLOYEES THAT NO ADMINISTRATIVE ACTION, REPEAT, NO ADMINISTRATIVE ACTION, NEITHER DISCIPLINARY NOR DISCRIMINATORY AS TO CAREER ADVANCEMENT, WILL BE TAKEN AGAINST AN EMPLOYEE BASED ON INSTANCES OF ELECTRONIC SURVEILLANCE IN ORGANIZED CRIME OR IN SIMILAR INVESTIGATIONS PRIOR TO JULY 1, 1965, TO BE REPORTED NOW, OR ON FAILURE TO HAVE PREVIOUSLY REPORTED SUCH INSTANCES, PROVIDED THE FAILURE TO REPORT WAS NOT BOTH WILLFUL AND WHILE UNDER OATH. IN ORDER THAT THE NATIONAL OFFICE CAN HAVE IMMEDIATE KNOWLEDGE OF ALL INSTANCES OF ELECTRONIC SURVEILLANCE, EACH ASIT CRIMINAL INVESTIGATOR, SPECIAL AGENT, INTELLIGENCE AND ASTT SUPERVISOR, DIVISION OR BRANCH CHIEF, AND OCD COORDINATOR, INCLUDING ANY EMPLOYEE WHO HAS HELD ONE OF THESE POSITIONS AT ANY TIME SINCE JANUARY 1, 1957, WILL SUBMIT AN IMMEDIATE REPORT. WHEREVER A FORMER EMPLOYEE IS KNOWN TO BE AVAILABLE AND BELIEVED TO BE AMENABLE TO SUBMITTING SUCH A REPORT, HE SHOULD BE CONTACTED AND ASKED TO SUBMIT A REPORT. THE REPORT MUST IDENTIFY EACH SPECIFIC INSTANCE OF ELECTRONIC SURVEILLANCE IN WHICH THE EMPLOYEE PARTICIPATED OR ABOUT WHICH HE HAS KNOWLEDGE OR REASONABLE SUSPICION, REGARDLESS OF WHETHER THE SURVEILLANCE WAS CONDUCTED BY EMPLOYEES OF THE SERVICE OR BY PERSONS OUTSIDE THE SERVICE. ATTEMPTS AT SURVEILLANCE SHOULD BE REPORTED EVEN THOUGH NO INFORMATION WAS OBTAINED OR USED. THE REPORT MUST TRY TO IDENTIFY (1) EACH CASE WHERE ELECTRONIC SURVEILLANCE WAS UTILIZED OR ATTEMPTED BY NAME OR CASE NUMBER, IF KNOWN, (2) THE TYPE AND LOCATION OF SUCH SURVEILLANCE, (3) THE DATE OR DATES OF SUCH SURVEILLANCE, (4) THE NAMES OF ANY OTHER CASES, OTHER THAN THOSE IDENTIFIED IN (1) ABOVE, IN WHICH INFORMATION OBTAINED FROM SURVEILLANCE WAS OR MIGHT HAVE BEEN UTILIZED, AND (5) THE NAMES OF OTHER SERVICE EMPLOYEES BELIEVED TO HAVE KNOWLEDGE OF THE SURVEILLANCE. NEGATIVE REPORTS TO THIS OFFICE ARE REQUIRED. REPORTS REQUIRED BY THIS TELETYPE SHOULD BE SUBMITTED TO THE DISTRICT DIRECTOR BY DISTRICT PERSONNEL, OR TO THE REGIONAL COMMISSIONER BY REGIONAL PERSONNEL, AS SOON AS POSSIBLE AND NO LATER THAN JANUARY 13. REGIONAL COMMISSIONERS AND DISTRICT DIRECTORS WILL FORWARD THE REPORTS TO THE ASSISTANT COMMISSIONER, COMPLIANCE, DAILY AS RECEIVED AND CONDUCT A FOLLOWUP TO ASSURE THAT A REPORT HAS BEEN SUBMITTED NO LATER THAN JANUARY 18, BY ALL EMPLOYEES REQUIRED TO REPORT. IMMEDIATELY AFTER SUBMITTING THE REPORT REQUIRED HEREIN, EACH EMPLOYEE WILL EXPEDITIOUSLY COMPLETE AND SUBMIT IN TRIPLICATE A QUESTIONNAIRE FORM OF THE TYPE REQUIRED BY MY DECEMBER 6 MEMORANDUM ON EACH CASE OR INCIDENT RAISED IN THE REPORT REQUIRED BY THIS TELETYPE, EXCEPT FOR THOSE CASES IDENTIFIED ON A LIST PREVIOUSLY TRANSMITTED TO YOU, FOR WHICH QUESTIONNAIRES ARE REQUIRED UNDER EARLIER INSTRUCTIONS. DISTRIBUTION WILL BE IN ACCORDANCE WITH INSTRUCTIONS IN THE DECEMBER 6 MEMORANDUM. REGIONAL COMMISSIONERS AND DISTRICT DIRECTORS SHOULD REPRODUCE THIS TELETYPE AND MY DECEMBER 6 MEMORANDUM AS NECESSARY TO ASSURE THAT ALL APPROPRIATE PRESENT AND FORMER EMPLOYEES RECEIVE A COPY OF EACH.

*Exhibit A*

*Exhibit B*

2a

DEPARTMENT OF JUSTICE

WASHINGTON, D. C. 20530

November 3, 1966

MEMO NO. 493

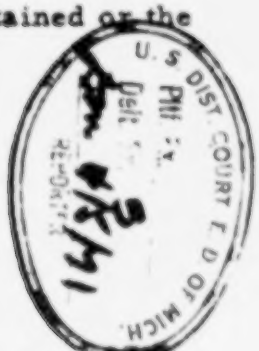
TO: All United States Attorneys

FROM: Ramsey Clark
Acting Attorney General

You will recall that in May 1966 the Department advised the Supreme Court of facts relating to the case of Black v. United States, October Term, 1965, No. 1029. Its memorandum in that case stated in pertinent part:

> Notwithstanding the Department of Justice's conclusion that the monitoring of conversations between petitioner and his attorney had no effect upon his conviction or the fairness of his trial, we have no doubt that in the circumstances outlined above petitioner is entitled to a judicial determination. We also recognize that petitioner has standing to raise, in a district court, the question whether other conversations (i. e., conversations not involving an attorney-client relationship) which were overheard as a result of the listening device installed in his suite furnished any leads or evidence in his case. At an appropriate hearing, the government proposes to submit all of the facts upon which a full judicial determination can be made.

This Department must never proceed with any investigation or case which includes evidence illegally obtained or the



fruits of that evidence. No investigation or case of that character shall go forward until such evidence and all of its fruits have been purged and we are in a position to assure ourselves and the court that there is no taint or unfairness. We must, also, scrupulously avoid any situation in which an intrusion into a confidential relationship would deny a fair hearing to a defendant or person under investigation.

For this reason we are in the process of requesting each investigative agency concerned to review its files in order to determine whether there has been wiretapping or electronic surveillance touching a particular case or matter. We are making a similar review of cases and matters pending in the Department. You will be informed immediately whenever a case or matter in your office is found to fall in this category.

Many matters are referred directly to your offices by the investigating agencies. Special attention must be given to these. But, it is imperative that you and your assistants make every effort to ascertain whether any cases, now pending or hereafter received, present the problem of wiretapping or electronic surveillance. No single means of checking is infallible but you should keep in mind that the same person or matter may have been investigated by several Federal or State agencies and the information

supplied to you may in fact come from more than one source. You should be particularly attentive to those cases which involve, directly or indirectly, hard core elements of organized crime.

It is, of course, the very rare case--one out of thousands--in which you will encounter the problem to which this memorandum is addressed. The problem will arise in cases in which some investigation was conducted prior to July 1965. Present practice, adopted in July 1965 in conformity with the policies declared by President Johnson on June 30, 1965 for the entire Federal establishment, prohibits the installation of listening devices in private areas (as well as the interception of telephone and other wire communications) in all instances other than those involving the collection of intelligence affecting the national security. The specific authorization of the Attorney General must be obtained in each instance when this exception is invoked. Intelligence data so collected will not be available for investigative or litigative purposes.

If you have any reason whatever to believe that there has been wiretapping or electronic surveillance touching a particular case, you should immediately notify Mr. J. Walter Yeagley,

Assistant Attorney General, Internal Security Division, so that further inquiry may be pursued by the Department.